

No.

2829

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**United States Circuit  
Court of Appeals  
FOR THE NINTH CIRCUIT**

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ALASKA STEAMSHIP COMPANY, Owner and  
Claimant of the Steamship "Seward,"  
*Appellant,*

vs.

ARTHUR J. GILBERT,  
*Appellee.*

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**APOSTLES ON APPEAL**

From the United States District Court for the Western  
Division of Washington, Northern  
Division

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Libelant and Appellee.



NO. 3164-A  
IN THE DISTRICT COURT OF THE UNITED  
STATES FOR THE WESTERN DISTRICT  
OF WASHINGTON, NORTHERN  
DIVISION  
IN ADMIRALTY

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ARTHUR J. GILBERT, *Libelant*,

vs.

S. S. SEWARD, *Respondent*,

ALASKA STEAMSHIP COMPANY, a Corporation,  
*Claimant*.

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STATEMENT

This suit was commenced on November 15, 1915. The names of the parties herein are Arthur J. Gilbert, Libelant, and Alaska Steamship Company, a corporation, Claimant. The libel was filed on November 15, 1915, and the claim and answer of the Alaska Steamship Company on December 3, 1915. On November 15, 1915, upon the filing of the libel, a monition issued under the seal of the District Court of the United States for the Western District of Washington, directed to the marshal of said court, and was, on the 18th day of November, 1915, returned by the said marshal into the office of the Clerk of said court, and served, on November 15, 1915, on C. A. McMasters, Secretary and Treasurer of the Alaska Steamship Company, and S. H. Melrose, Acting Manager of the American Surety Company of New York, principal and surety on the standing bond for the release of vessels of the Alaska Steamship Company on file in said court.

On the 10th day of January, 1916, this cause came on for trial and hearing before the Honorable Jeremiah Neterer, one of the Judges of the District Court of the United States for the Western District of Washington, upon testimony taken by deposition in pursuance of a stipulation entered into between the proctors for the parties herein, and upon testimony of witnesses produced and examined in open

court. Proctors for the respective parties appeared and argued the cause, and thereafter submitted briefs to the court. Thereafter, on February 28, 1916, the Honorable Jeremiah Neterer, before whom the cause was tried and heard, as aforesaid, duly filed his memorandum decision in said cause.

Final decree was made, entered and filed on February 28, 1916.

On March 10, 1916, the cost bill of libellant was taxed and the objections of claimant thereto filed on the same day.

On March 13, 1916, claimant's objections to libellant's cost bill were heard by the court, and on March 20, 1916, the court's memorandum decision was filed, overruling said objections.

Notice of appeal was filed on June 6, 1916.

#### LIBEL

TO THE HONORABLE JEREMIAH NETERER:

The Libellant, Arthur J. Gilbert, able seaman, against the S. S. SEWARD, her tackle, apparel, and furniture, and against all persons lawfully intervening for their interest therein, in a cause of breach of contract of employment civil and maritime, alleges as follows:

#### I.

That at all the times herein mentioned the said S. S. SEWARD was and now is an American vessel, and at the time of the filing of the Libel herein was and still is lying in the port of Seattle, and within the District of this Honorable Court.

#### II.

That this Libellant has a certificate from the United States Government as a able seaman, such certificate being serial number 844.

That on the 22nd day of September, 1915, this libellant was hired by one Frederick W. Robblee, who is first mate on said vessel, and articles of agreement were entered into between the libellant and the master of said ship, J. Johnson, said libellant to serve as able seaman in the capacity of watchman, upon said ship on the voyage from Seattle, Washington, where



the said vessel was then lying, to Anchorage, Alaska, and return to Seattle, leaving Seattle on said voyage on the 25th day of September, 1915, at the rate of wages of Fifty Dollars (\$50.00) per month, and over time allowance of Fifty Cents (50c) per hour.

III.

That libellant entered into the service of said vessel on or about said 22nd day of September, 1915, and performed all duties required of him by his contract of employment and by the first mate and other officers in charge of the vessel, and continued in the performance of his regular duties until said vessel reached the port of Juneau, Alaska.

IV.

That on the 4th day of October, 1915, at said port of Juneau, Alaska, and while this libellant was performing his customary duties on said ship, the first mate above mentioned, without cause, wrongfully discharged libellant from his employment on said ship and forcibly put him ashore.

V.

That by reason of this breach of contract and of such wrongful discharge, this libellant has suffered damages to the amount of Five Hundred Dollars (\$500.00).

VI.

That after the time of his said wrongful discharge on October 4th, 1915, until the termination of his contract of employment with the return of the S. S. SEWARD to the port of Seattle, on November 9th, 1915, this libellant was compelled to expend the sum of Sixteen Dollars (\$16.00) for return passage to Seattle, Washington; and that from the time this libellant was forcibly put ashore from said vessel until the termination of the period covered by his contract of employment, the libellant was compelled to expend the sum of Forty-six and 50/100 Dollars (\$46.50) for board and lodging; and further that this libellant was compelled to expend the sum of Fifty Cents (50c) for carting his baggage to his lodging house; and further, that, after the signing of said

articles and before the sailing of said S. S. Seward from the port of Seattle, Washington, for Anchorage, Alaska, and while libellant was actually in the employ and service of said vessel, he was compelled to expend and did expend the sum of \$1.50 for six (6) meals. That no part of said indebtedness has been paid, and the same is now due and owing to this libellant.

## VII.

This libellant is informed and believes, and therefore states the fact to be that the average wages of able seaman earning \$50.00 per month with an allowance of 50c per hour for overtime, on the said S. S. Seward on said voyage, was One Hundred Forty-five Dollars (\$145.00) or thereabouts.

WHEREFORE this libellant prays that process of attachment in due form of law, according to the practice of this Honorable Court in cases of Admiralty and maritime jurisdiction, may issue against the said S. S. Seward, her tackle, apparel and furniture, and that all persons having or claiming to have any right, title, or interest therein may be cited to appear and answer all and singular the matters propounded, and that this Honorable Court may be pleased to pronounce for the damages aforesaid in the sum of \$500.00, for the average of wages received by able seamen on said voyage in the sum of \$145.00, and for the necessary expenses incurred by this libellant because of his wrongful discharge in the sums of \$16.00, \$46.50, 50c, and \$1.50, as above set out, up to the time said vessel reached the port of Seattle, aggregating the sum of \$709.50, together with libellant's costs and attorney's fees herein; and that the said vessel, her tackle, apparel and furniture may be condemned to be sold to pay the same; and that the court may grant to this libellant such other and further relief as shall by law justly appertain.

EIMON L. WIENIR,  
Proctor for Libellant.

United States of America, Western District of Washington, Northern District.—ss.

ARTHUR J. GILBERT, being first duly sworn, on oath deposes and says: That he is the libellant above named; and he has read the foregoing libel, knows the contents thereof, and that the statements and allegations therein contained are true.

ARTHUR J. GILBERT.

Subscribed and sworn to before me this 13th day of November, 1915.

J. H. KANE,

Notary Public in and for the State of Washington, residing at Seattle.

Indorsed: Libel. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Nov. 15, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy.

CLAIM OF ALASKA STEAMSHIP COMPANY  
To the Honorable Judge of the United States District Court for the Western District of Washington, Northern Division:

Comes now the Alaska Steamship Company, owner of the Steamship "Seward," intervening for its interests in said vessel, and makes claim to the said Steamship "Seward," as the same is attached by the United States Marshal under process of this court, at the instance of Arthur J. Gilbert, and the said Alaska Steamship Company avers that it was in possession of the said vessel at the time of the attachment thereof and that it is the true and bona fide owner of the said vessel and that no other person is the owner thereof.

WHEREFORE, it prays to be admitted to defend accordingly.

Dated this 2nd day of December, 1915.

BOGLE, GRAVES, MERRITT & BOGLE.

State of Washington, County of King.—ss.

Before the undersigned Notary Public, W. H. Bogle this day makes oath that he is Second Vice-President of the Alaska Steamship Company, claimant named in the above entitled cause; that he has read



the foregoing plea and claim, knows the contents thereof and that the matters therein stated are true.

W. H. BOGLE.

Subscribed and sworn to before me this 2nd day of December, A. D. 1915.

(Seal)

R. D. SMALLEY.

Notary Public in and for the State of Washington, residing at Seattle.

Service of within Claim this 3d day of Dec., 1915, and receipt of a copy thereof admitted.

EIMON L. WIENIR,

Attorney for Libellant.

Indorsed: Claim of Alaska Steamship Co. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Dec. 3, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy.

ANSWER OF ALASKA STEAMSHIP COMPANY

The answer of the Alaska Steamship Company, owner of the Steamship "Seward," and claimant in the above entitled cause, to the libel filed therein, alleges as follows:

I.

Claimant admits the allegations of Paragraph I of said libel.

II.

Claimant admits that said libellant has a certificate from the United States Government as an able seaman, which certificate was issued subsequent to the 1st day of November, 1915. Claimant further admits that on or about the 22nd day of September, 1915, this libellant was hired and employed by the agents of the claimant and signed shipping articles to work in the capacity of watchman on board the Steamship "Seward" on the voyage to the said port in Alaska and return to the Port of Seattle, leaving Seattle on or about the 25th day of September, 1915, at the rate of wages of Fifty Dollars (\$50.00) per month. Claimant denies that in said shipping articles any agreement or allowance was provided for overtime, but admits and alleges that at the time the said libellant was employed he was a member of the Sailors'

Union of the Pacific and that at said time there was in full force and existence a valid agreement between the Puget Sound Shipping Association, of which this claimant is a member, and the said Sailors' Union of the Pacific, of which the said libelant was a member, which said agreement was binding upon both the libelant and claimant and that the aforesaid employment was subject to and governed by said agreement, and that in said agreement, under certain circumstances therein specified, provision was made for the payment of overtime at the rate of fifty cents per hour.

### III.

Claimant admits that libelant entered into the service of the said vessel on or about the 22nd day of September, 1915, but denies that said libelant performed all duties required of him by his contract of employment or by the officers in charge of said vessel, and denies that he continued to perform his regular duties until the said vessel reached the port of Juneau, Alaska.

### IV.

Claimant admits that on or about the 4th day of October, 1915, while the said vessel was lying at the Port of Juneau, Alaska, the officers of the said steamship discharged the said libelant from its employ. Claimant denies that the said libelant was performing his customary duties on said ship and denies that he was forcibly put ashore, and claimant expressly alleges that the said libelant was discharged for just cause by reason of his refusal to obey the orders of the officers of the said vessel, which were necessary for the safety of the said vessel and her crew.

### V.

Claimant denies each and every allegation in paragraph V of said libel, and the whole thereof.

### VI.

Claimant denies each and every allegation in paragraph VI and the whole thereof.

### VII.

Claimant denies each and every allegation in paragraph VII, and the whole thereof.



WHEREFORE, claimant having fully answered the allegations of said libel, prays that the same may be dismissed and that it have and recover its costs herein to be taxed, and for such other and further relief as to justice may appertain.

BOGLE, GRAVES, MERRITT & BOGLE,

Proctors for Claimant.

State of Washington, County of King.—ss.

W. H. Bogle, being first duly sworn, on oath states: That he is Second Vice-President of the Alaska Steamship Company, a corporation, the claimant in the above entitled action; that he has read the foregoing answer, knows the contents thereof and believes the same to be true.

W. H. BOGLE.

Subscribed and sworn to before me this 2nd day of December, 1915.

(Seal)

R. D. SMALLEY,

Notary Public in and for the State of Washington, residing at Seattle.

Service of within Answer this 3d day of Dec., 1915, and receipt of a copy thereof, admitted.

EIMON L. WIENIR,

Attorney for Libelant.

Indorsed: Answer of Alaska Steamship Company. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Dec. 3, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy.

#### STIPULATION

IT IS HEREBY STIPULATED AND AGREED, by and between proctors for the respective parties, that the testimony of Oliver Woolhouse, Arthur J. Gilbert, Cezar Curty and P. Bering, may be taken as witnesses on behalf of the Libelant, at the office of Messrs. Bogle, Graves, Merritt & Bogle, Central Building, Seattle, Washington, before Earl E. Richards, a Notary Public in and for the state of Washington, residing at Seattle in said state, on November 23, 1915, at 2 o'clock p. m.; that the depositions of said witnesses, when so taken, may be used on the trial of the above entitled action with the same

force and effect as though said witnesses were personally present and testifying; subject, however, to such objections as may be made at the time of taking such depositions.

And it is hereby further stipulated by and between the parties hereto, that the signatures of said witnesses to such depositions are hereby expressly waived.

EIMON L. WIENIR,

Proctor for Libelant.

BOGLE, GRAVES, MERRITT & BOGLE,

Proctors for Respondent and Claimant.

BE IT REMEMBERED, that heretofore and on, to-wit, November 23, 1915, pursuant to the attached stipulation, before the undersigned, a notary public in and for the state of Washington, appeared Mr. Eimon Wienir, proctor for Libelant, and Mr. Lawrence Bogle (of Messrs. Bogle, Graves, Merritt & Bogle), proctor for Respondent and Claimant;

WHEREUPON the following proceedings were had:

OLIVER WOOLHOUSE, produced as a witness on behalf of Libelant, and having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. WIENIR). Your name is what?

A. Woolhouse.

Q. State your full name? A. Oliver.

Q. And were you employed by the steamship "Seward?" A. Yes, sir.

Q. On this trip?

A. On last trip, yes, sir; on the same trip he was on, yes.

Q. On the same trip that Arthur Gilbert was employed? A. Yes, sir.

Q. And when did you sail from Seattle?

A. I think it was on the 27th of September.

Q. The 27th of September. And you have known Arthur Gilbert? A. The whole trip.

Q. As far as you know, Mr. Woolhouse, did Mr.

Gilbert do everything that was asked and required of him? A. Yes, sir.

Q. As far as you know, he performed his duties from day to day and from time to time? A. Yes, sir.

Q. Now, did you overhear a conversation between the mate, Roblee, and Mr. Gilbert? A. Yes, sir.

Q. On the third day of October, 1915?

A. Yes, sir; about half past three or four o'clock, I guess.

Q. Now, where were you at the time this conversation was going on? A. I was in the mess-room.

Q. And how far were you from Mr. Gilbert?

A. Well, I guess about eight or ten feet.

Q. And how far were you from Mr. Roblee?

A. About the same distance. They were both right there together.

Q. And say whether or not the door was open?

A. Yes, sir; the door was open.

Q. And could you hear distinctly? A. Yes, sir.

Q. Now, just state what was that conversation between Roblee, the first mate, and Arthur Gilbert, the seaman?

A. Well, now, he came down about four o'clock in the afternoon.

Q. Who did?

A. The mate; and asked Mr. Gilbert why he was not on watch, and Mr. Gilbert told him he was not supposed to be there—to go on watch until six o'clock, and he told him he was supposed to go on watch when it was dark, any time when it was dark; and he told him his time was from six to six. Well, he told him he was supposed to go on at five o'clock. So they went on and he wanted to know whether he was going or not, and he told him no, he was not going unless he was going to give him an hour overtime, which he said he was entitled to. So he said, "Well, if you don't want to go on at five o'clock," he said, "we will get somebody that will." So that was all that was said that day, until we got at Valdez or some place right in there, he came down about three o'clock to look for him, and Gilbert was up town, and when he

did come down he told him his time was made out for him. He would not take his time. So he turned to that night, and there was another man there to turn to too. He came down, I think it was a little—a little later. So they met each other right on the deck. I was standing within about a foot or two away from them, and they started an argument there. He wanted him to go ashore and he would not go ashore, and he told him, he said, "If you want me to go ashore you put me ashore," and that went back and forward quite a while; he said, "Well, if you want me to put you ashore, I will put you ashore," and he took him by the arm and led him ashore.

Q. Now, where was it that he was put ashore?

A. I don't know what is the name of the town.

Q. Do you remember the port?

A. Yes, it was a little lumber mill, it was there, I think. No, it was not there, we left there.

Q. Was or was he not put ashore in Juneau?

A. Juneau is the place where he was put ashore.

Q. You overheard practically every word that was being spoken at that time?

A. Yes, sir; just what I said.

Q. Was Mr. Gilbert—did he seem to be ready and willing to do what was asked of him?

A. Well, he seemed to be willing to, but of course he told him, he said, "If you want me to go to work before six o'clock, if you give me an hour overtime all well and good." I think he asked him if he thought he was kidding him or something, I ain't sure if he did, I know I didn't quite catch that, but anyhow he told him, he said, "If you don't want to put the light up at five o'clock, I will get somebody that will." And so when we got to this other port he got this fellow—he was a prospector, he was no seafaring man at all—and this fellow took his place.

Q. Was this on your outward voyage or inward voyage—return voyage? A. On the outward.

Q. On the outward voyage. Now, the next night, along about what time was it that Gilbert went to work?



A. I guess he turned to at six o'clock that night, because it must have been about half past six when he asked him what he turned to for, he had another man, and he said, "If you want me to go ashore," he says, "you put me ashore." Of course he had his working clothes on then. And they kept going back and forth, and after that he says, "If you want me to put you ashore, all right," and he took and put him ashore.

Q. Did you see Gilbert turn to, as it is called, every day or pretty nearly every day while on this voyage?

A. Yes, sir; about—he always was there ten or fifteen minutes ahead of time.

Q. And what time did he usually turn to?

A. About a quarter to six.

Q. About a quarter to six. And on this particular day that the dispute arose, do you know whether or not he turned to in time or not, the usual hour?

A. Oh, yes, because this arose in the afternoon, probably this was about four o'clock—no, about five o'clock I guess it was, when he was down there, and it was dark then, you see, and asked him why he didn't have the lights on, and then he told him he was not supposed to turn to until six o'clock.

Q. Did he express a desire to turn to if he was paid overtime for it?

A. Yes, that is what he told him. He said, "I will turn to if you are willing to pay me an hour overtime," which he said he would not do.

Q. And the evening that he was put ashore, did he perform his regular duties that evening?

A. Yes, sir; I think he did, put out his lights and everything, I think—yes, sir; I know he did.

Q. Do you know from your own observation whether he did or not?

A. Yes, sir; I am pretty sure he did, because the other fellow didn't—no, I won't swear, either, I guess. I know he turned to at six o'clock, because I went up on deck right after he did and I met the two of them there and I was just about a foot away from them;



but I won't swear whether he did put the lights out that night or not. You see he always gets his lights out forward, you see, and I won't swear whether he did put them out that night or not, because I asked him too, I says, "Have you turned to?" He says, "Yes, I am going to turn to until he puts me ashore"—because I saw him before the mate did and I told him, I says, "The mate is looking for you. He told me—he said he had his time made out for you." "Well," he says, "I ain't going ashore unless he puts me ashore."

Q. How long have you known Mr. Gilbert?

A. Just this trip.

Q. Just this trip?

A. About two months and a half—two months.

Q. As a matter of fact, you were on the boat, on the ship with him the trip previous?

A. No, I was not.

Q. Then just this trip? A. Just this trip.

Q. And during all that time you have seen that Mr. Gilbert performed his duties as an able seaman?

A. Yes, sir.

Q. In a way that able seamen usually do?

A. Yes, sir.

Q. Did he seem to be obedient, in your observations of things did he seem to be obedient to the commands of superior officers? A. No, sir; none at all.

Q. How is that? A. None, not at all, not to me.

Q. You didn't understand my question. I say, did he seem to obey the commands of his superior officers? A. All the time, yes, sir.

#### CROSS EXAMINATION

Q. (MR. BOGLE). What is your position aboard the "Seward," or what was your position?

A. Well, I was—I went out as messman on her.

Q. What was your duty aboard the vessel?

A. Well, to take care of the officers.

Q. You mean you would clean up the rooms?

A. Yes, sir.

Q. And do you wait on the table?

A. Well, I waited on just the oilers. I had the officers' rooms to take care of.

Q. You cleaned up the officers' rooms and waited on the oilers' tables? A. Yes.

Q. And what were your hours of duty?

A. Well, we didn't have no special hours, just sometimes from 5:30, six o'clock in the morning until half past seven or eight at night; it is just when we get done.

Q. When you get through with your work?

A. Yes, that is it.

Q. And what was Mr. Gilbert's position aboard this vessel? A. Night watchman.

Q. He was night watchman. And what were his duties as night watchman?

A. Well, to attend to the lights.

Q. What lights?

A. Well, the signal lights, and I don't know what you would call them.

Q. Do you mean the ship's regulation running lights? A. Yes, sir.

Q. Masthead light? A. Yes.

Q. Range lights? A. Yes, all of them.

Q. And the side lights? A. That is his duty.

Q. What is the character of the lights on that vessel, oil or electric? A. Electric lights?

A. Electric lights, I am pretty sure they are.

Q. What is his running light, is that an electric light? A. Yes, sir.

Q. Her running light. What is her anchor light, is that an electric light too?

A. Them is the lights on the sides?

Q. The light she uses when she is at anchor, on the forward mast? A. Oh, no, that is coal oil.

Q. On the forward mast, is coal oil?

A. Coal oil. That is one they hoist up.

Q. They use that light when they are at anchor?

A. At anchor, yes.

Q. When did this Mr. Gilbert claim his hours of work commenced?

A. Six at night—six in the morning.

Q. You had no particular hours to work?

A. No, sir; not at all.

Q. You had certain work to do?

A. I have certain work to do and when it is done I was finished.

Q. As far as you know, did Mr. Gilbert have any particular hours of work?

A. No, sir; not only from what way I understand.

Q. What he said?

A. What he said. Of course on other boats what I have been on, of course I know—

Q. I am asking if you know what Mr. Gilbert's hours of work are? A. Just from what he said.

Q. You don't know whether he had a contract specifying the hours of work or not, do you?

A. No, sir; none at all.

Q. So his work started at six o'clock, and your work was usually over by seven? A. Yes, sir.

Q. And he worked—his work was throughout the night to watch the ship, and putting the lights out, to see that there were no fires— A. Yes, sir.

Q. Or any unusual incident. And you came on duty again about 5:30 or six the next morning?

A. Yes, sir.

Q. So that while Mr. Gilbert was engaged in his duty, practically all the time you were off duty, weren't you? A. Yes, sir; practically.

Q. So you don't know whether he was attending to his duty or not, do you?

A. No, sir; not after seven or eight o'clock.

Q. No. You don't know whether he was obeying the commands of the officers or not, do you?

A. No, sir; just what I have heard them say, that is all.

Q. Did you ever hear the officer give him any other orders except that time? A. No, sir.

Q. So that when you say that he was doing his work in a regular workmanlike manner and obeying the commands of the officers, you don't know anything about that, do you?

A. Well, no, just what—like what he did say—what little bit I heard him talk to him.

Q. Now, do you remember when this conversation took place, on what date? A. No, sir; I don't.

Q. Do you remember where the ship was lying at the time? A. No, sir; I don't.

Q. She was not at Juneau at the time this conversation took place, was she?

A. No, sir; not when the first.

Q. Was she at anchor?

A. No, sir; I think we were on our way.

Q. She was not running then?

A. Yes, sir; I think we were running.

Q. You are not sure of that, are you?

A. No, sir; I ain't sure. I never took much notice, because I didn't think anything would turn up about it, to tell the truth.

Q. You would not swear that she was not at anchor and the crew engaged in discharging cargo, would you, at the time this conversation took place?

A. No, sir; I won't.

Q. Now, what did the mate say to Gilbert when he came below?

A. Well, he asked him why wasn't he up on deck, and he told him he was not supposed to be there until six o'clock, and he told him he was supposed to be there when it was dark, and he told him his time was from six to six. "Well," he says, "then you don't intend to put out the lights or don't intend to go to work before six?" And he says, "Not unless you give an hour overtime," and he told him he would not. So then he says—he told him he would not, and then he told him, he says, "Do you refuse?" he says. He says, "Yes, sir; unless you give me an hour overtime." So then he says, "All right." So when he got there he got another man.

Q. In this conversation did he ask him why he was not on duty, or didn't he ask him why he hadn't put out his lights?

A. He asked him why wasn't he on duty.

Q. Did he say anything about his lights?

A. Well, you twist it up. No, I—

Q. You said a minute ago in the examination that he asked him, you said he asked Gilbert—



A. Why wasn't he up on deck and put out the lights.

Q. Yes, that is what he said to him, wasn't it?

A. Yes, sir.

Q. And Gilbert said that he didn't have to go up until six o'clock? A. His time was from six to six.

Q. He refused to go up unless the mate would agree to give him overtime right there?

A. An hour overtime, yes, sir.

Q. And this light, if she was at shore, and that should be up, would be this oil light which you have to run up the mast, isn't it? A. Yes, sir.

Q. The fore mast or the main mast. And it was the next night that they put him ashore? A. Yes, sir.

Q. The mate asked him whether he refused—whether he refused to go up and put out the lights, didn't he? A. The next night?

Q. No, this first night? A. Yes, sir.

Q. And he said he did unless the mate would agree to give him overtime? A. Give him overtime.

Q. And did the mate tell him then that he would get another man?

A. No, sir. When he got there he got another man. He didn't tell him right then.

Q. Did he tell him that he would discharge him if he didn't obey orders?

A. No, he didn't tell him in that way. He says, "Then do you refuse?" He said, "Yes, sir." "All right," he says. Like that.

Q. Are you a Union man? A. Yes, sir.

Q. What union do you belong to?

A. Union Cooks and Stewards.

Q. Do you know whether or not Mr. Gilbert was a union man? A. Only from the book he showed me.

Q. What book was that?

A. Sailors' Union Book.

Q. What do you mean by Sailors' Union Book?

A. Well, we all carry a union book.

Q. Is that issued by the Union?

A. By the Union, yes, sir.

Q. Is that it? (Showing.)



A. No, sir; it is a black book like this. I think his is about the same. (Showing.)

Q. Well, he had a little book issued by the Sailors' Union, did he, of the Pacific?

A. I think that was the rule, wasn't it? They got books out like that with the rules too, but the Union Book is like the one I showed you.

Q. You don't know whether he had one of these books?

A. I think he showed me one in his room there that night he was put shore.

Q. One of those books?

A. Yes, sir; I think he was reading or looking it over or something and showed it to me.

Q. That is the book of "Agreement between Puget Sound Shipping Association and the Sailors' Union of the Pacific?"

A. Yes, sir; I think that is what it is that he showed me.

MR. BOGLE: I will have that marked for identification.

Book referred to was marked Respondent's Exhibit "1."

#### REDIRECT EXAMINATION

Q. (MR. WIENIR): You think you saw this little book by Mr. Gilbert?

A. Yes, sir; I seen it in his room.

Q. As a matter of fact are not there a great many little books just about the one size, that sailors generally have around? Did he read you any of the provisions in that little book?

A. Yes, I think he did read over one or two of them about—because I asked him, I said, "Now, are you sure of what you are doing?" "Well," he says, "here it is right here in black and white," and I think he read it to me right there in the room.

Q. Where was it that he read it to you?

A. In his room. You see I was taking care of him.

Q. When was this, when was it that you saw him read from this little book?

A. That is when the mate put him ashore, when he came back downstairs.

Q. Had the mate already put him ashore then?

A. The mate already put him ashore.

Q. And he had come back?

A. I think he looked at it, though, the day before, too, he looked at it before.

Q. How do you know that?

A. Well, I seen it before I am pretty sure.

Q. Did you see him look at it before? Can you swear that you saw him look at that book before?

A. No, I can't swear; I would not swear, because I ain't sure, only—I can't even—I would not swear that—that was the only time I swear was when he came down that night and we were talking it over and then he showed me the book, read about the different rules of the Northwest Passage—

Q. Do you know whether it is this book that is being marked for identification now, or might it have been any other little book?

A. Well, I don't know. All I know is from the outside, the cover. Of course I don't know what book it is, you know.

Q. You don't know what book it is?

A. No, sir; only he had a book of rules, looked just about the same as that, on the ship.

Q. When was it that he read that to you?

A. I think when he came back downstairs.

Q. What did he come back for?

A. Came back for his clothes and things.

Q. Was this before or after his discharge?

A. That was after his discharge.

Q. Did you see the first mate put Gilbert ashore?

A. Yes, sir; I seen him take him right by the arm and lead him ashore.

Q. Did you overhear any words that were spoken by the first mate?

A. Only when he was standing up there like I told you, just before he put him ashore. He was telling him to go ashore, and he told him he would not go ashore unless he put him ashore. So they kept

going back and forward. So he says, "If you want me to put you ashore, all right." So he just takes him by the arm and puts him ashore, and the purser just went by at that time, and he hollers to this purser, he says, "Did you see that, Mr. so and so?" And the purser says, "Yes"—something like that.

Q. Did you hear any remarks by Gilbert as to why he didn't want to go ashore?

A. Why, he said he would not—no, I don't think he did make any remarks to him about it. Of course he—

Q. Did he say as to whether or not he was willing to go to work?

A. Oh, yes; he was willing to go to work. He did turn to that night to go to work. He was already turned to that night, and the mate told him that he was canned and told him that he had another fellow.

#### RECROSS EXAMINATION

Q. (MR. BOGLE): What was it, Mr. Woolhouse, that Mr. Gilbert was reading to you out of this little book, do you remember what the substance of it was?

A. No, I—well, it was just about different rules of sailing either one way or the other it was, you know, out of the book—different regulations he said that was one way and the other. That is what he was reading.

Q. In connection with the sailor performing his duty—was that what it was? A. Yes, sir.

Q. Did it have anything to do with the Union—Union Rules and Regulations?

A. Well, that was supposed to be the Union Rules and Regulations in that book.

Q. You were talking to him about the position he was in, were you? A. Yes, sir.

Q. And he thought that he was perfectly safe, did he?

A. He thought he was all right. He said—that is "If they put me ashore," he said, "I am willing to go to work unless they put me ashore."

Q. This was the next night after they had had the trouble? A. Yes, sir.

Q. And he read over these rules, and did he read any particular rule to you?

A. No, none particular. I just—to tell the truth I didn't take much notice of it at all, because I didn't think it would come to anything at all. I was standing there and he was looking over the book and read over this rule about this certain passage. He said it was different rules different ways.

Q. A certain passage about a sailor performing his duty, was it? A. Yes, sir.

Q. Was there any passage in there about overtime, that he was reading to you?

A. No, sir; I don't think there was, none at all.

Q. You say this was after the mate had discharged him?

A. After the mate had discharged him.

Q. It was after he had put him ashore?

A. Yes, sir.

Q. And he got back aboard the ship after he had put him ashore, did he?

A. He came back for his clothes after he put him ashore.

Q. Did you see the mate lead him right ashore?

A. No. They both stood on the deck and the mate took him by the arm and walked up to the edge of the ship, and the ship was up pretty high, and just raised him right up and put him shore.

Q. He did that because Gilbert said he would not go ashore unless he put him ashore?

A. Gilbert told him, "If you want me to go ashore, put me ashore."

Q. And isn't it a fact the mate just put his arm on Gilbert and Gilbert says, "That's all right, I just wanted you to do that. Now I will go ashore"—didn't he?

A. Well, after he put him ashore—after he put him ashore I think he did tell him—

Q. Oh, well, it is not material.

A. I wouldn't swear whether he did or not. I don't remember whether he did or not.

(Witness excused.)



CEZAR CURTY, produced as a witness on behalf of LIBELLANT, having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. WIENIR): State your full name, Mr. Curty. A. My full name?

Q. Yes. A. Cezar Curty.

Q. How old are you? A. Twenty-eight?

Q. And you are an able seaman? A. Oh, yes.

Q. And you were employed on the steamship "Seward" with Mr. Gilbert? A. Yes, sir.

Q. On the trip to Anchorage, Alaska, and return? A. Yes.

Q. And did you know Mr. Gilbert at the time you were signing articles—shipping articles?

A. Oh, I don't know him, I don't know him very well. I know he was on board the vessel with me together, and that is all I know of him.

Q. You know him since you have met him on the vessel? A. Yes, that is all, yes.

Q. What are your hours of work, Mr. Curty?

A. Well, I was day-man on board there. My hours were nine hours a day.

Q. Nine hours a day?

A. From seven in the morning until five in the evening.

Q. In what capacity were you working on the boat? A. As able seaman.

Q. Do you recall the 4th day of October, 1915?

A. Oh, yes.

Q. Do you recall the time when Mr. Gilbert was put ashore?

A. Yes, it must have been about between seven and eight o'clock in the evening.

Q. Of what date?

A. The 4th day of October, I think it was.

Q. Just tell us what occurred at that time?

A. Well, I was working on the dock landing loads, and I saw Mr. Gilbert and the mate speaking together, just about on the outside of the captain's room on the after part of the vessel, and I don't know, somehow or



another I saw the mate getting hold of Mr. Gilbert's arm and he shoved him towards there and he says "You get the hell on shore out of this and hurry up about it, too," and then of course Gilbert he had to jump over the rail.

Q. You didn't overhear any conversation?

A. No, I didn't.

Q. You don't know anything else outside of seeing the first mate take Gilbert by the arm and put him ashore?

A. He took him by the arm, he got hold of his arm and shoved him towards the railing. He says, "You get to hell on shore and hurry up about it, too."

Q. Mr. Curty, do you recall any statements that the captain made after Gilbert was put ashore?

A. Yes, sir, it was about I guess fifteen minutes after Gilbert went on shore.

Q. (MR. BOGLE): Fifteen minutes after this?

A. After this, that the captain and mate were speaking together, and I heard that much—

Q. Captain—what is his name?

A. Captain Johnson. He says, "That's right," he says, "fire the man," he says, "we don't need no watchman anyhow"—"we don't need no God damn watchman anyhow." That is all I heard.

Q. Where were you at the time that was spoken?

A. Oh, I was—well, I don't think it was very far, it was just on the dock, you know, close to the railing of that vessel.

Q. How far were you from the speakers? You overheard the words that were spoken? A. Yes.

Q. You overheard every word?

A. Yes, very plain. It was loud-voiced, you know. Any other words, more conversation I didn't overhear between them. No, I didn't hear any more.

Q. Did you have any opportunity to observe Mr. Gilbert at all on the ship, Mr. Curty?

A. Well, I really never interfered with his business any otherwise.

Q. On this particular night in question he was

performing his regular duty—do you know whether he was or not?

MR. BOGLE: This was on October 4th?

Q. (MR. WIENIR): On October 4th?

A. Well, I could not say anything about that. I just saw Gilbert during the supper hour, said, in the fore-castle, that he was going to put the lights out, and then afterwards I didn't see no lights out there. They must have had some kind of an argument, and then I noticed them ship him ashore. I don't know what is was.

Q. Did you see Gilbert perform his duties that evening say between the hours of six and seven?

A. No.

Q. You did not? A. No.

Q. Were you in a position where you could see him do that?

A. Well, no, I was not exactly in a position. I was on the dock, you know. I could not watch everything. He might have put the lights down in the hold or he might have put them on deck and I would not take notice of them.

#### CROSS EXAMINATION

Q. (MR. BOGLE): Have you ever been a watchman? A. No, sir, I never have been a watchman.

Q. You don't know what a watchman's duties are?

A. Yes.

Q. It is his duty to put out the lights?

A. Yes, the watchman generally puts out the lights. That is his duty, you know, putting out those lights—cluster lights, and down in the hold.

Q. Did you ever see anybody else on the ship putting those lights out?

A. Why, no. Sometimes the mate do, you know, when the watchman is really busy, they may give him a hand in putting them out, but any other wise the watchman always does it.

Q. You didn't see Gilbert on the night before, October 3rd, did you, the night before he was put off the ship?

A. Oh, I might have seen him, but that is about

all. I never took no notice of his doings and so on. I never hardly spoke to the man.

Q. On this particular night you say you saw him down in the messroom?

A. No, down in the forecastle forward.

Q. Forecastle forward? A. Yes.

Q. Getting out the lights?

A. No, he was speaking about putting out the lights.

Q. Oh, he was just speaking about it? A. Yes.

Q. You were lying at Annex then, weren't you?

A. Yes, we were laying over there in Sheep Creek. No, in Juneau we were laying.

Q. Well, right in Juneau. You were lying at Sheep Creek the night before? A. Yes.

Q. What time was this—

A. Well, we were lying in Annex the night afterwards, not before.

Q. This night anyway, on October 4th, you were lying at Juneau?

A. Yes, we were at Juneau, at the City Dock.

Q. And he was in the forecastle talking about putting out the lights? A. Yes.

Q. What time was that?

A. Well, it was during the supper hour, about six o'clock, something about six o'clock.

Q. Was it dark then?

A. Well, I guess—I should judge it was kind of dark all right.

Q. You say that your hours are from seven in the morning until five at night? A. Yes.

Q. Who fixed those hours?

A. Well, that is agreement between the ship owners and the Sailors' Union, that the working hours for day men shall be nine hours, and quartermaster, they are going watch and watch.

Q. Do you know what that agreement provides for in the case of night watchman?

A. Well, according to the seamen's rules, what we got up here, I notice there was a little bit, not very much—agreement between the ship owners' associa-

tion and the Sailors' Union is that watchmen shall perform the regular duty—watchmen and station men.

Q. Does it say what hours they shall keep?

A. Oh, yes.

Q. Do you know what hours they are to keep?

A. Well, when they shall be called on deck between the hours of seven in the morning and five o'clock in the evening, they shall be paid at overtime rate.

Q. That is when they are called between seven in the morning—

A. (Interrupting): Yes, that is what I kind of think. I am not positive sure, but I think that is what, anyhow.

Q. (MR. WIENIR): You don't know?

A. I don't know exactly, but I kind of thought that is what I seen.

Q. (MR. BOGGLE): Do you know what the working hours are in port, when vessels are in port?

A. Well, I don't know exactly that they have got any agreement to that effect, or not, I could not tell you exactly.

Q. But your agreement in connection with the shipping on this Coast, or out of this harbor, is covered by that agreement between the Puget Sound Shipping Association and the Sailors' Union, isn't it?

A. Yes, that is what it is.

Q. That fixes your hours, does it?

A. That fixes our hours.

Q. That provides for the overtime, doesn't it?

A. Overtime and everything necessary working, you know.

Q. Outside of that agreement, do you know of any provision that allows seamen overtime?

A. No, not outside of that I don't know.

Q. Outside of that?

A. Sundays and holidays, of course.

Q. Did you ever have any dispute about overtime in your hours of work?

A. No, I never had. I always went up and straightened with the mate right away when I worked any overtime, so I couldn't have any dispute.



Q. Did you ever refuse to go to work because it was not doing your regular hours?

(No response.)

Q. For instance, if you were called on to go to work between five and six at night, do you do it?

A. Oh, yes, they can shift the working hours. They can shift the meal hour from five to six; I have got some work to do, they can shift the meal hour ahead and back.

Q. You frequently work between five and six at night?

A. Oh, yes, I have worked between five and six. I have worked until six and took my supper like from that to seven, you know.

Q. And you got overtime from five to six?

A. Oh, yes.

Q. Isn't it a fact that you were working when you were at Annex, up until six o'clock? That is the day before you got to Juneau, the night before you got to Juneau?? A. At Annex?

Q. Yes, or do you remember that?

A. I don't exactly remember that. I could not tell you.

Q. Now, Mr. Curty, are you familiar with this agreement, do you know what that provides?

A. Well, I only just read what it says in there, that is all.

Q. Does the Sailors' Association furnish you boys with these agreements?

A. Yes, we get one of those agreements. We get whatever ones it is they have.

Q. It is this agreement between the Shipping Association and the Sailors' Union? A. Yes.

Q. They provide you with a copy of that, do they?

A. They provide us with a copy of it.

Q. Are you instructed to abide by those?

A. To abide by those rules, and, furthermore, I think the mate on board the vessel has got one of them, too.

Q. Did you ever refer to them? Your agreement as to overtime and time of work and everything is covered by that agreement, isn't it?

A. Yes, it is covered by that.

Q. When the mate took hold of Gilbert's arm, where did he lead him to, over to the rail?

A. No, not over the rail, but he led him right up to the rail.

Q. How far was that?

A. Oh, it was a couple of feet.

Q. A couple of feet. And then he let him go there, didn't he? A. Well, yes, I guess he did go.

Q. Gilbert jumped over the rail himself?

A. He jumped over the rail himself. He had his foot out—

Q. Did you hear him say anything to the mate then? A. No, Gilbert never said a word.

Q. Did the mate say thing except to tell him to get off? A. No, he didn't keep on saying any more.

Q. Now, when did you hear the captain make this remark? A. Well, it must have been—

Q. After that, wasn't it?

A. (Continuing)—after that. It was about fifteen minutes after that, I guess.

Q. And you said the captain said they didn't need a watchman anyhow? A. Yes.

Q. Did they have a watchman for the rest of the trip? A. Oh, yes, they got one the next day.

Q. They got one at Juneau, did they?

A. Yes. He came aboard in Annex, I think it was.

Q. Sheep Creek?

A. Yes, Annex is what we call the place.

#### REDIRECT EXAMINATION

Q. (MR. WIENIR): Now, do you know what the average pay was for seamen getting \$50 a month and 50 cents an hour overtime, during this last trip?

A. The average for this, do you mean?

Q. Yes. A. Why, time between the—

Q. For those fellows getting \$50 a month and 50 cents an hour overtime, do you know? Answer "Yes" or "No," first.

A. You know we got different, we got different.

Q. Well, just the average, say, some fellows get-

ting a little more and some fellows getting a little less, but about the average?

A. Take the average I guess is about \$90 a month.

Q. How is that?

A. \$90, I guess, if you take high and low together.

Q. Now, just answer this question first: Do you know what the average wages is for seamen getting \$50 a month, for this return trip from Seattle to Anchorage, Alaska, and return?

A. How much we made on the voyage, you mean?

Q. Well, do you know what seamen earning that much money—earning \$50 a month—do you know what they earned on this round trip?

MR. BOGLE: I object to that is immaterial.

A. Well, some of them they made I think \$173. I made about—

Q. Answer me whether you know, or not, first. Do you know what the average is?

A. No, not exactly, I don't know.

Q. Well, that is all right. I guess that is all.

#### RECROSS EXAMINATION

Q. (MR. BOGLE): What did you mean when you said \$90 a month for the high and low?

A. You know if you take into consideration some fellows may make \$110 and the other fellow may make \$85, you know, take them all together and split it up, you know, that may be \$90 apiece; that is the way I figure.

Q. That includes overtime, does it?

A. Overtime, yes.

Q. Does the watchman have an opportunity to make the same overtime that the A. B.'s do?

A. Yes, they generally make more on some of the ships.

Q. How would they make more on this ship?

A. Because when they are working at night times, you know, every time a watchman works is 50 cents an hour, besides his monthly wages.

Q. When he works at night time?

A. Night time or in day time, it don't cut any figure, it is 50 cents an hour.

Q. He is on duty at night isn't he?

A. Yes, but sometimes they put a watchman to work anyway.

Q. When he is on duty? A. Yes.

Q. And he makes 50 cents an hour when he is working? A. Yes, any time he works.

Q. Well, you don't have a watchman when he is working at some other employment then, do you?

A. Maybe the mate watch out himself then. Sometimes they do that.

Q. Do you know that the watchman gets overtime for at night when he is on duty?

A. Oh, yes, he gets—the watchman, as long as he handles any cargo, anything outside of putting out his lights and so on, he gets overtime.

Q. His regular duties are to put out the lights and walk around the ship?

A. Walk around the ship and see that everything is all right.

Q. And to take the lights in in the morning when they are through with them? A. Yes.

Q. Do you know whether this watchman was working with you at Sheep Creek, or Annex, rather?

A. No. I didn't work that together—he might have been working somewhere else; I was working on the dock, you know, all the time.

(Witness excused.)

P. BERING, produced as a witness on behalf of LIBELANT, and having been first duly sworn by the Notary to tell the truth, the whole truth and nothing but the truth, testified as follows:

Q. (MR. WIENIR): State your name?

A. P. Bering.

Q. State your age. A. Twenty-two; 1893.

Q. Were you employed on the steamer "Seward" on this last trip to Anchorage, Alaska, and return?

A. Yes, sir.

Q. Now, Mr. Bering, did you have an opportunity to observe Mr. Gilbert while he was working and while he was aboard the steamship "Seward"?



A. Yes, I have. I can tell that he always did his work, when he was told.

Q. You had an opportunity to see him work?

A. Yes, I did.

Q. And so far as you know, Mr. Bering, he has always done his work well and has obeyed the commands of his officers? A. Yes, sir, he did.

Q. Do you recall this 4th day of October when Mr. Gilbert was put ashore?

A. Yes, sir, I remember that.

Q. And just tell us what you saw on that occasion?

A. Well, I saw that just after seven o'clock when I should have to oil up the winches, and I was going up and I saw Mr. Roblee put him on shore over the rail.

Q. How did he do it?

A. Had him like this, something like this (illustrating). I could not hear what he said because it was about 25 feet, something like that, away; I could not hear what he said.

Q. Well, it seemed to you to be a forcible—put him off forcibly, or what?

MR. BOGLE: I object to that as leading.

Q. (MR. WIENIR): Well, just tell us how did he do it. Just tell us how he got hold of him and how he led him off, if you can?

A. He got hold of him like this, one hand underneath and one on the arm, what I seen, and put him on shore. Of course Gilbert was climbing over the rail onto the dock, you see. I don't know if it was by force, because I don't know—it looked that way, any otherwise he would go over the gang plank.

#### CROSS EXAMINATION

Q. (MR. BOGLE): You were an A. B., were you? A. No, I was a winch driver on the "Seward."

Q. What are your hours?

A. My hours are seven in the morning until five in the afternoon.

Q. Seven in the morning until five in the afternoon? A. Yes sir.

Q. How are your hours fixed?

A. That is our regular hours; but then any time after that is overtime, you see.

Q. According to what agreement is that?

A. Well, sir, to the agreement we got with the ship owners for nine hour day while we are at sea, and at port that we have to work the ship through as long as any cargo left or any cargo going on board, we work the ship until it goes out; sometimes we work forty-eight or fifty-two hours or fifty-eight hours on a stretch, you see; just according to how much cargo she got on and how much she has got to take on again.

Q. It is your duty to work cargo, isn't it. A. Yes.

Q. You do that duty as long as there is any cargo to work?

A. As long as there is any left going on board, until there is nothing left. My place is on the winch or on the dock, one of the two.

Q. And if you work after five o'clock you get overtime? A. Yes.

Q. That is according to your agreement with the ship owners? A. With the ship owners.

Q. Are you familiar with that agreement?

A. I am.

Q. Yes, are familiar with that agreement.

A. Oh, yes.

Q. I will hand you this respondent's exhibit "1" and ask you if that is a copy of that agreement?

A. No, it is not.

Q. Read it, look at it and see if it is not. (Handing.)

A. No, that is not the agreement we got for the southwestern run. We made a special run with the Alaska Steamship Company for the—we got an agreement for the southeastern run and the southeastern and southwestern, the southeastern and Bering Sea.

Q. Yes, there is an agreement between the Puget Sound Shipping Association and the Sailors' Union of the Pacific Coast, for the Bering Sea and southwestern Alaska run? A. Well, now, let me look.

Q. It might not be in the same binding that you

are familiar with, but look and see if it is the same agreement. (Handing.)

A. (After examining.) Yes, it is in the same form, but the one we have is a different agreement, just for Alaska—

Q. The same agreement?

A. The same form, yes sir.

Q. And that is the agreement that governs your employment? A. Yes sir.

Q. You understand that, do you?

A. Yes, I understand that.

Q. The watchman is not on duty in the day time?

A. No, he is supposed to go on watch at six o'clock at night—from six to six.

Q. According to what agreement is that?

A. According to what time the watchman has got—watchman has no special agreement with the ship owners whatsoever, but then that is the rules for all the years I have been at sea, anyway, that they go on watch from six to six.

Q. It is his duty to put out the lights?

A. To put out the lights and see the lines are all right; if they are not, to report to the mate.

Q. If you are in port and it is dark before six o'clock, doesn't the watchman have to put out the lights?

A. Well, if he is told to, yes, but that is overtime, you see.

Q. If he is told to, and he gets overtime for that?

A. Yes.

Q. That is according to this agreement, is it?

A. This agreement what we got with the ship owners, the rules the way they work it right through.

Q. Your being on duty in the day time and the watchman being on duty at night, how did you have much opportunity to observe the watchman?

A. Well, we generally—you know I see the watchman every time, every port we get in we always get a night or three or four nights in port where the watchman is always around and asks us if we want anything, around the winch drivers anyway, because we get our lights from him.

Q. When you are off duty you are down in the forecandle? A. Down in the forecandle or aft.

Q. And when you see him is when he comes down to ask you if you need anything?

A. I see him because when I am working I am on the deck; he is always around us.

Q. Did you pay any particular attention to observe how he was doing his duties?

A. Yes; as far as I know he always did his work, when he was told, and I know he knows his work.

Q. Did you ever hear anybody tell him to do anything? A. Yes, I did, lots of nights.

Q. And he would do what he was told, would he?

A. He did what he was told, as far as I know.

Q. As far as you know. You were not following the watchman around to see whether he was doing his duty or not, you were busy yourself, weren't you?

A. To an extent. Because lots of nights the mate came down and asked me and says "How does the lights suit you?" I says "I have a man there—so I can see the man in the wing," whatever it was, and he told the watchman to do it and he told him what I told the mate.

Q. And it was when that came under your particular observation that you would notice what he was doing; you don't want the court to understand that you were around following the watchman to see whether he was doing his duty or not?

A. Oh, you can see that, if he is doing his duty or not. What he has to do is to put lights up. Say we are laying alongside of the dock, he has to put certain lights up, riding lights, and if you lay an anchor you can see if he has them placed right or not when you pass there.

Q. That is his duty there?

A. That is his duties.

#### REDIRECT EXAMINATION

Q. (MR. WIENIR): Do you know what the average wages were on this round trip, for seamen getting \$50 a month and 50 cents an hour overtime?

MR. BOGLE: I object as immaterial.



Q. (MR. WIENIR): Do you know?

A. Well, I know I had one hundred and fifty-five, but then—

Q. Just answer that question. Do you know what the average of the wages was?

A. Yes, I know. It was between—

Q. What was that average?

A. It was between \$136, I think, and \$180.

#### RECROSS EXAMINATION

Q. (MR. BOGLE): One hundred and eighty for what? A. For the quartermasters.

Q. For the quartermaster?

MR. WIENIR: My question was for seamen, for these fellows that get \$50 a month and 50 cents an hour overtime.

THE WITNESS: All alike.

Q. (MR. BOGLE): And they all got \$90 a month?

A. Quartermasters, they all get the same wages.

Q. You mean some of them made \$180 a month?

A. Well, they did. I made a little over one hundred and fifty-five.

Q. (MR. WIENIR): You mean on this round trip?

A. Yes, for this round trip. It was a little over—well, I could not tell exactly now how much we were down on the Shipping Master for, but I know I had a little over \$155.

Q. (MR. BOGLE): You did that how many times? A. For this last round trip.

Q. That last round trip? A. Yes.

Q. How often would you average that?

A. Oh, about every six weeks.

Q. That would be six weeks' work?

A. Six weeks' work, something like that. Sometimes you make it in a month; just depends on how you get to the ports to get nights in, you see.

Q. (MR. WIENIR): On this particular trip?

A. On this particular trip we made between one hundred and thirty-six and about one hundred and eighty.

Q. (MR. BOGLE): Who made one hundred and eighty on that trip?

A. One of the quartermasters; Charlie Carlson was his name, I think.

Q. He was a quartermaster?

A. Yes, he was a quartermaster.

Q. You were winch-driver, and you made one hundred and fifty-five. A. Yes.

Q. And what did some of the other men, the seamen, make?

A. Well, about one hundred and thirty-six; one hundred and forty, some of them.

#### REDIRECT EXAMINATION

Q. (MR. WIENIR): Mr. Bering, are you in a position to earn more overtime than Mr. Gilbert is?

A. Oh, yes, I am.

Q. You are? A. Yes.

Q. Well now, do you know any man on the boat that would get the opportunity to work overtime about as much as Mr. Gilbert?

A. I think they get the opportunity, as far as that goes, because if the boat is in like that they haven't got many longshoremen up there and they work all hands on board the "Seward," oilers and everybody, everybody is working; even the engineers was working last trip.

Q. And the watchman would work as well as any of the rest of the fellows?

A. Yes; even the engineers were working, the first assistant and all.

(Witness excused.)

State of Washington, County of King—ss.

I, EARL E. RICHARDS, a Notary Public in and for the state of Washington, residing at Seattle, in said county, do hereby certify that:

The annexed and foregoing depositions of the witnesses Oliver Woolhouse, Arthur J. Gilbert, Cezar Curty and P. Bering, on behalf of Libelant, were taken before me and reduced to writing by myself at Seattle, in said county and state, on the 23rd day of November, 1915, in pursuance of the annexed stipulation.

That the above named witnesses, before examination, were by me duly sworn to testify the truth, the whole truth and nothing but the truth.

That the reading and signing of said depositions by the said witnesses was expressly waived by the respective parties hereto, by their proctors.

I do further certify that respondent's exhibit "1," hereto attached, is the paper offered in evidence by proctor for respondent and claimant in connection with the cross examination of the libelant herein.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my notarial seal this 8th day of January, 1916.

(SEAL) EARL E. RICHARDS,  
Notary Public in and for the state of Washington, residing at Seattle in said state.

Indorsed: Depositions of Oliver Woolhouse, Cezar Curty and P. Bering, on behalf of Libellant, taken on the 23d day of November, 1915, at Seattle, Washington, before Earl E. Richards, Notary Public. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Jan. 10, 1916, Frank L. Crosby, Clerk. By E. M. L., Deputy.

#### TESTIMONY TAKEN IN OPEN COURT

This cause coming on for hearing on January 10th, 1916, before the Honorable Jeremiah Neterer, Judge of the above entitled court.

The libelant appearing in person and by his attorney, Mr. Eimon L. Wienir.

And the respondent and claimant being represented by their attorney and counsel, Mr. Lawrence Bogle (of Messrs. Bogle, Graves, Merritt & Bogle).

Thereupon the following proceedings were had and testimony taken, to-wit:

ARTHUR J. GILBERT, the Libelant, having been first duly sworn, testified as follows:

Q. (THE COURT): What is your name?

A. Arthur J. Gilbert.

Q. (MR. WIENIR): Mr. Gilbert, state what is your age? A. Twenty-five.

Q. And what is your experience as a seaman?

A. Well, I hold a government certificate—able seaman's certificate.

Q. And state the number of that certificate and the date when it was issued?

A. It is number 844, issued on the 30th day of October last.

Q. (THE COURT): What certificate is that?

A. The government certificate, sir.

THE COURT: Yes.

A. Certified—

Q. (MR. WIENIR): And state the number of years that you have been a seaman.

A. Well, I have been a seaman for over three years.

Q. When were you first employed at the steamship "Seward"—when did you enter into the employment of the steamship "Seward?"

A. The 30th day of July last.

Q. And where did you make the first trip to?

A. To Knick Anchorage and back, from Seattle.

Q. And when did the ship return to Seattle?

A. From the first trip?

Q. Yes.

A. It was somewheres about the 13th or 14th of September. We were paid off on the 19th of September.

Q. State whether or not you stayed by the ship—

A. Yes, I did.

Q. (Continuing) —after that first trip?

A. Yes, I did.

Q. Mr. Gilbert, you signed shipping articles with the steamship "Seward," you signed shipping articles?

A. Yes, yes.

Q. On the first trip? A. Yes.

Q. And on the second trip? A. Yes.

Q. What arrangement did you have, for the first trip, what were your hours of employment?

A. From 6 p. m. until 6 a. m. the next morning.

Q. And what was your work?

A. Well, I came on watch at six o'clock and I sounded the bilges and filled the galley coal bunker,



and had other jobs that the mate would give me around the deck.

Q. You had better state quite fully just what your duties were on there, if you can?

A. Well, I was going around and looking after the safety of the ship, looking to see that there was no fire around between decks, and going around to make my round as a watchman usually does.

Q. What kind of lights did the steamship "Seward" have, I mean running lights? A. Electric.

Q. Electric lights. And was it your duty to turn those on when you went on watch?

A. No, I never turned those on.

Q. Did you turn those lights off? A. Only once.

Q. Who employed you on your first voyage on the steamship "Seward?"

A. The first mate, Bloomberg.

Q. And on your second voyage, after you stayed by the ship, who hired you and made the arrangement with you?

A. Well, I stayed by the ship for—let's see—three or four days, something like that, and I was away from the ship for two days, and I came back and—I was away from the ship Friday night and Saturday night, and I came back Sunday morning, and the first mate, Mr. Robblee he said that—asked me where I had been. I told him I had been over to Everett and around different places looking for the ship, I couldn't find her, so I waited until she came back to Seattle; and he said the captain was raising the devil about me not being there. So he said he didn't know just what to do about me, but he would see the captain and see if he could fix it up. So I waited around for a while, and I asked him, I says, "How about me going on deck with the sailors forward?" And he said "No," he said he wanted some old-time sailors; after a while he came back—a few minutes later he came back and told me that it was all right, he says, "You go to work the same way as you was before." We signed on about the 26th of September, something like that.

Q. And did you perform the same duties on the second trip that you did on the first? A. Yes.

Q. And state the hours of work, state whether or not they were the same?

A. Yes, I worked the same hours.

Q. And also just what shift did you work?

A. From six p. m. until six a. m.

Q. Now, do you recall the afternoon of October 3rd, 1915? A. Yes, sir.

Q. What occurred that day?

A. Well, I had a discussion with the mate about a quarter to five, after I had finished eating supper, and I was going around to my room to get dressed to go on watch at six o'clock.

Q. What time in the day?

A. About 5:45. And I met the mate there and he says, "Watchman," he says, "why aren't you on deck?" So I looked at my watch and saw what time it was, it was still a quarter to six by my watch. So I told him it was not six o'clock yet, and he said, "Six o'clock nothing," he says, "you are supposed to be on watch at five o'clock in port." Well, I told him no, I was not supposed to be on watch at five o'clock in port, I said my hours were from six to six, that is an agreement I made when I shipped; and he says "You had better come on five o'clock in port." I says, "All right, I will come on watch at five o'clock in port," I says, "it don't make any difference to me, only I have got an hour more overtime for it." And he says, "Overtime be God damned," he says, "you come on watch at five o'clock, or," he says, "I will put you ashore in Juneau." I told him that he could not kid me that way, I was too familiar with the duties of a watchman—watchman's duties; and he said he was mate aboard the ship and he was going to be mate aboard the ship, and that ended the discussion there.

Q. State whether or not you turned to that evening at the usual time?

A. Yes, or a few minutes before, to be on the safe side.

Q. State what you did that evening?

A. Well, I went to my room and finished dressing, getting the rest of my working clothes on, and I went out on deck and went forward, and I saw one of the fellows putting up a light—an anchor light hanging to the rigging; so I went down below and I got the electric light—that was an oil light—I went down and got an electric light and hung it up on the light halyard. I took this other one down because this other one was not in the proper place, as I understand; then I went and took up another for a riding light. There was only one riding light at the time and a ship of that size must have two riding lights, according to law—according to the law that is on the ship there—in the government law posted on the ship. So then I went around and I lighted more lights around and I lighted more lights around the deck and along the edge of the hatch, and put up more cargo clusters. So then I sounded the bilges, and I filled the galley coal bunker, and I took down the flags.

Q. In other words, Mr. Gilbert, did you perform the duties which were required of a watchman, that evening? A. Yes, sir.

Q. Who saw you perform those duties?

A. Well, there was P. Baring.

Q. Did the mate, Robblee, address you at all and give you any commands that evening, did he see you?

A. After this discussion, you mean?

Q. That evening, the evening of October 3rd, when you were working?

A. Well, at six o'clock they had finished working, and from six to seven they were taking their supper hour, and then—they started to work again at seven o'clock, and a sling carried away and a piece of pipe fell on a man and hurt a man there, a few minutes after seven. So they finished working for the night, and he came along to me, told me to go tell the engineers to loose off the lights 'tween decks because they had so much dynamite there they were scared it might ignite, and he told me to put more lights along the hatches—up on deck along the edges of the hatches, so nobody would fall down the hatch, and he told me



also to keep a lookout for ice; he said he had a man standing anchor watch that afternoon, standing by that afternoon.

Q. Mr. Gilbert, did you quit at six a. m., that is, the next morning you quit your work and went below?

A. Yes, sir; six a. m.

Q. And what did you do next?

A. Well, the ship went back to Juneau in the meantime, so I went ashore about half past twelve, at noon, and I was ashore until about half past two. When I came aboard again I met the mess-boy, Woolhouse. He said the mate was looking for me, and he said, "The mate was going to put you ashore" because he had told him so. Just then the mate came around through the alleyway from the starboard side and I met him and he said, "Come here, Gilbert, I want you." So I went around to his room with him, and he says, "Check up your overtime." So I checked up the overtime. He says, "You have got three and a half hours coming to you." He says, "Is that correct?" I says, "Yes, sir." He says, "You have got thirteen days' pay coming to you." "Well," I said, "I haven't got no—I don't want no thirteen days' pay," I said, "It is only customary to collect my hours' overtime when I was outside—to get the thirteen days' pay from the shipping commissioner when we get back to Seattle." He says, "Oh, well, you want it now, you are going ashore in Juneau here." "Well," I says, "No," I says, "I am not going ashore in Juneau here." "Well," he says, "I am going to put you ashore." "All right," I says he could not put me ashore—could not put me ashore and be right. So he says, "I will put you ashore all right when we get good and ready to go." So he says, "If you know when you are well off," he says, "you will take your time check now and go to the purser and get your money," and I refused it. So I went down below and I got my supper about five o'clock, and I went around, and as usual got my working clothes on to go to work at the usual time, and I did go to work at the usual time and done my usual work. I sounded the bilges first, and filled the galley



coal bunkers, and I put up one or two lights—most of the lights were up when I came on deck—and made several rounds to see everything was O. K. And about a quarter past seven this mate told me to go ashore, and he told me I need not go to work that night; he says, "You are through," he says, "you need not go to work tonight," he says, "I have got another man in your place," he says, something to that effect. And I told him that I was not going ashore. Well, he said, "I will put you ashore." "Well," I says, "that's altogether different," I says, "if you want to put me ashore you can put me ashore, but I won't go ashore, because you can't put me ashore and be right." So he says "All you want is to be put ashore," he says, "I will put you ashore." And so he grabbed me by the arm and started to put me over the ship's side, on the dock, and before he pushed me over he says, "No," he says, "we will get the gang plank out." So he led me forward to the gang plank and put me ashore at the gang plank.

Q. Mr. Gilbert, did you say that you went to work that second evening at the usual time, to perform your usual duties, until you were discharged?

A. Yes, sir.

Q. Were you called before five o'clock and told to be on deck? A. No, sir.

Q. Either the first day or the second? A. No, sir.

Q. Do you know the rule—state whether or not you know the rule as to calling men to work overtime? Say "Yes" or "No" first. A. Yes.

Q. State whether or not it is customary to call a man fifteen minutes before he is wanted to work overtime? A. In the watch below, yes.

Q. State whether or not the officer in command, or the first mate, told you that he shifted your hours of employment from five to five, or some other way than from six to six shift? A. No, sir.

Q. Mr. Gilbert, did you refuse to go to work when the mate ordered you on deck? A. No, sir.

Q. What was the only thing that you were trying to clear up?

A. Well, I only wanted an understanding—five o'clock was not my regular time to go to work, and I wanted an understanding.

Q. Understanding as to what?

A. Well, what he wanted. He came down first of all and he started to give me a calling down for not being on, he started "Why aren't you on watch at five o'clock?" And I hadn't been called or never told to go on watch. And it is only necessary, you want some explanation.

Q. Mr. Gilbert, state whether or not you know what the custom and the practice is, on other boats, that is, in regard to watchmen working from six to six? A. Yes, sir; that is—

Q. (Interrupting): Just a minutes. State whether or not you know that custom— A. Yes.

Q. (Continuing): —and that practice. Now, was the custom on the steamship "Seward" the same as on other ships? A. Yes.

MR. BOGLE: I object to that, Your Honor. He has testified that he signed shipping articles, and they specify his hours, and he was working under those shipping articles. If he was working under a written contract, it is immaterial.

THE COURT: I think the shipping articles would control where there is a provision made in the shipping articles.

Q. (MR. WIENIR): Now, when you went on deck the first night, did you see a man named Hagen, I believe it was, who was watching anchor—on the anchor watch at that time? A. Yes.

Q. (MR. BOGLE): What night was this?

MR. WIENIR: This was on the night of October 3rd.

Q. (MR. WIENIR): And what were Hagen's duties, state, if you know?

A. Well, a man standing anchor watch, he looks after the safety of the ship, looks that the ship don't drag her anchor, and looks after the anchor lights, and if the fog comes up he looks after the fog bell.

Q. After you were discharged, what did you do?

A. Well, I went up town and got a room.

Q. That is in Juneau?

A. Yes, at the Circle City Hotel, and I stayed there, and I tried to make arrangements to get back to Seattle here, and I asked several of the mates if I could get a job. I asked the mate of the "Redondo" if I could get a chance to work my way back to Seattle or get a job, and I asked the mate on the "Admiral Farragut," and the mate on the "Princess Sophia," I asked the captain of the "Princess Sophia" also, and the mate of the "Spokane."

Q. How long did you stay in Juneau?

A. About eleven days.

Q. And how did you get back to Seattle?

A. I paid my fare to Seattle.

Q. And since your arrival in Seattle, have you tried to get other employment? A. Yes.

Q. Tell the court where you tried to get employment since that time?

A. Well, I tried on the steamer "Alki" and—

MR. BOGLE: If the court please, it seems to me if this is proper at all the period of time within which he tried to get employment should be limited to the duration of this particular voyage.

THE COURT: Make your objection.

MR. BOGLE: Yes, I object to it on that ground.

Q. (MR. WIENIR): From the time that you arrived in Seattle until the steamship "Seward" returned, where did you try to get employment?

A. Well, I tried to get on the steamer "Alki" here in Seattle, and on the steamer "Kansas City," that is two of the ships that I went around and asked the mate, but I had other opportunities to go to work on ships that were going away a long distance, like the "Minnesota" and another ship going to the west coast of South America, the "Edna" and some schooners.

Q. Now, Mr. Gilbert— A. Those opportunities came up—they send for a man to the Union hall. And have their name on a list there and the highest man on the list he gets first chance to ship. So I had an opportunity to ship several times, but I could not go



because I wanted to be around here for this case when it would come up.

Q. Mr. Gilbert, how much did you spend, what was the fare money in coming down from Juneau to Seattle? A. \$16.

Q. And about how much did it cost you to live from the time you were discharged until the steamship "Seward" reached Seattle, November 9th I believe it was, or November 8th or 9th, of 1915, about how much a day did it cost you?

MR. BOGLE: I object to that, if the court please, as being not a proper item of allowance. My understanding of the rule is that if a seaman is improperly discharged during the course of the voyage, he is entitled to his wages to the end of that voyage, together with his expense of returning home, in a foreign port. Now, this was not a foreign port, and the items he is going into now are for some twelve days that he claims he spent in Juneau.

THE COURT: I will hear the evidence and determine later what application shall be made.

MR. WIENIR: If the court please, at this time I should like to introduce in evidence a certified copy of the wages that were paid on the steamship "Seward" on that particular trip, certified to by the shipping commissioner, for the purpose of showing what the wages were that were earned by men who were getting \$50 a month and at the rate of overtime that the libelant here was getting.

THE COURT: Is there any objection?

MR. BOGLE: I shall object to that, if the court please, on the ground that he was working under a specific contract of \$50 a month, and this court has heretofore held in such cases, as to allowance of wages, that he would only consider the contract rate—I think that is the decision of Judge Hanford—and that the matter of overtime was purely speculative and not to be taken into consideration. What another man might have made in overtime is no criterion of what this watchman might have made in overtime. I do not think the Federal Statutes make any allowance for that. They make allowance for the payment of his



wages to the end of the voyage, not for extra services in the nature of overtime.

MR. WIENIR: Your Honor, the wages which this man contracted for were \$50 a month and 50 cents per hour overtime.

Q. (MR. WIENIR): State whether or not that is correct?

A. Yes. All overtime I worked I got 50 cents an hour overtime.

MR. WIENIR: The overtime is just as much a part of the wages as the salary or wage of \$50.

THE COURT: What do you want to show by this?

MR. WIENIR: I want to show, Your Honor, that Mr. Gilbert had an opportunity to get overtime more than many of the men who were employed on that ship, and that he is entitled to show what he would average on the overtime, the average amount of overtime which other men working in like capacity were earning on that ship.

THE COURT: Put it in and we will determine about the materiality of it later.

MR. WIENIR: I offer this.

Paper referred to was marked libellant's exhibit "A."

MR. WIENIR: Your Honor, that record will speak for itself.

THE COURT: Oh, yes.

Q. (MR. WIENIR): You allege that you were damaged in the sum of \$500? A. Yes, sir.

Q. Tell the court what your damage consists of in that respect?

A. Well, it is not very nice to get fired there, up there in Juneau, and, another thing, you must be put ashore or something like that for something very serious, I understand.

MR. BOGLE: I can't hear.

A. (Continuing): And they have something against you.

THE COURT: Speak that way. Then I can hear and they can hear.

A. They have something against you, they have got something against you, like that, something serious, and leave you there in Juneau, and tends to give you a bad character, and causes lots of steamship companies not to want your services.

Q. (MR. WIENIR): And were your feelings damaged, did you feel badly because of the fact that you were forcibly discharged? A. Yes.

#### CROSS EXAMINATION

Q. (MR. BOGLE): You had made one previous voyage on the steamer "Seward," Mr. Gilbert?

A. Yes.

Q. And upon her return to Seattle you stayed by the ship? A. Yes.

Q. And that voyage was made at a prior period of the year, in the summer, was it not?

A. Yes, the trip before this.

Q. During that trip what hour in the evening did it get dark?

A. Well, it got dark earlier down here than it did up north probably.

Q. Well—

A. So when we were going up in the summer it was later and when we were coming back down it was earlier.

Q. About what time would it get dark in the vicinity of Juneau and north in July and August?

A. Well, I was not there in July or August.

Q. You left here on the previous trip in July, didn't you? A. Yes.

Q. Northbound? A. Yes.

Q. You returned in September? A. Yes.

Q. So you were on that voyage in July and August, weren't you?

A. We didn't go to Juneau, though.

Q. Well, out to the westward, up to Cordova and Seward? A. Oh.

Q. Was it dark at five o'clock?

A. Oh, no. That is the trip—

Q. Was it dark at six o'clock? A. No, no.

Q. On this particular voyage, when you left here on September 27th, it got dark much earlier, didn't it?

A. Oh, yes.

Q. It was dark before six o'clock, wasn't it?

A. Where?

Q. Well, at Juneau?

A. Well, it was getting dark.

Q. Had you ever shipped before as a watchman?

A. Yes.

Q. On what vessels? A. Well, on the "Capalino."

Q. That is a little small Canadian boat, is it?

A. That is, yes; and for a few days on the "Cammoosa."

Q. You have been a seaman here three years, you say? A. Over three years, yes, sir.

Q. This certificate which you have testified to was obtained in October after this trouble had taken place, wasn't it, you didn't have that certificate at the time you were employed by the steamship "Seward?"

A. I got that on the experience I have had previous to that time I had been discharged on the "Seward."

Q. Yes, but you didn't have that at the time?

A. No, sir; I didn't have it at the time. You didn't have to have one.

Q. You got it after this trouble had occurred, did you?

A. Oh, yes, but I got it on the experience that I had previous to this trouble.

Q. Yes; and the fact that you had had this trouble did not prevent you from getting the certificate in any way, did it? A. Oh, no. No.

Q. Now, Mr. Gilbert, you say that your hours of employment were from six p. m. to six a. m. Were those hours fixed by your shipping articles?

A. I don't know. I never saw it in the shipping articles. I made that agreement with the mate when I shipped—Mr. Bloomberg—and Mr. Robblee told me to go to work the same as before on the second trip; that is after I had been away from the ship two days.

Q. Did Mr. Robblee mention the specific hours 6 p. m. to 6 a. m.? A. No, he didn't.

Q. Now, in testifying as to your duties as a watchman, I don't think you said anything about looking after the lights, did you? A. What is that?

Q. As watchman aboard this ship, what were your duties with reference to the ship's lights?

A. Well, if they wanted any lights put up, the officer of the watch would tell me to put the lights up, or else sometimes I put the lights up myself, because I know the—I was on watch and he would want the lights up anyway, so it was only a question of time for him to come and tell me to put up the lights anyway.

Q. It was a part of your duties at the time to put up lights?

A. Yes, when you get an order you usually have to carry out the order.

Q. You have been a seaman for three years and you know that it is necessary to put up these lights and that it is your duty to put them up, don't you?

A. Which lights?

Q. The running lights, the anchor light, when you are up in there.

A. Whoever gave order to put up the lights.

Q. It is not a specific part of your duty then? (No response.)

Q. As a matter of fact, isn't it part of your duty and understanding up there that you are to put up the lights, whatever lights are necessary, prior to the time when it is dark?

A. Well, yes, if you are at anchor, or something like that, sometimes they will tell you, coming to anchoring, to get your anchor lights out, or else whatever lights they want out; it is customary.

Q. Now, on this particular evening when the trouble occurred, or, rather, prior to that evening, had you had any trouble with the mate or the captain? A. Prior to October 3rd?

Q. October 3rd, yes? A. Or 4th?



Q. Prior to October 3rd, had you had any trouble with eiether the mate or the captain?

A. Well, I never had any trouble with the captain at all. Of course the mate had used some abusive language to me more than once.

Q. Prior to that time had he? A. Yes.

Q. Still he was the mate who interceded in your behalf with the captain when he, you say, was angry, when you missed the ship for two days?

A. He told me he would. I don't know if he did. He said—

Q. He fixed it up, didn't he?

A. If he didn't want me he only could say "You are finished" because he hired and discharged them.

Q. He did that, didn't he?

A. Well, I don't know. He said he would.

Q. You so testified, anyway. Now, you say that it was about a quarter of six when you met the mate?

A. Yes, about a quarter to six.

Q. At that time you didn't have your working clothes on? A. I was only partly dressed.

Q. And it was dark, wasn't it?

A. No, I would not say it was dark.

Q. You were down below at the time, weren't you? A. At the time of this argument?

Q. Yes. A. Yes.

Q. Were the lights lit? A. Which lights?

Q. The electric lights below, 'tween decks?

A. Yes, they were—that is, after 'tween decks. It is darker down 'tween decks than it is outside, though, on top deck.

Q. You were not outside, though. Now, didn't he ask you at that time why you didn't have your lights up? A. No, sir.

Q. Did he at that time mention or say anything about lights? A. No, sir.

Q. Not during the course of the argument at all?

A. Not during the course, no, sir.

Q. And the whole argument was about you not being at work at five o'clock, was it?

A. He came down and he says, "Why aren't you

on watch at five o'clock?" And I told him it was not six o'clock. I looked at my watch—he asked me why I was not on watch, rather, and I told him it was not six o'clock. "Well," he says, "you are supposed to be on watch at five o'clock in port," and I told him that I was not supposed to be on watch at five o'clock, six o'clock was the time, and he says, "You are supposed to go on watch at five o'clock." "Well," I says, "all right, I will go on watch at five o'clock, but" he says—I says, "it will mean an hour overtime for me, that is all the difference it makes to me." He says, "Overtime be God damned," he says, "you go on watch at five o'clock," he says, "or I will put you off, ashore, at Juneau." This was on Taku Inlet. So I told him he couldn't kid me that way because I was too familiar with the duties of a watchman. "Well," he says, "I am mate aboard this ship," he says, "and I am going to be mate aboard the ship, and I will show you." So away he goes up the stairs then and left me.

Q. That was the time when he told you to go on watch at five o'clock or he would put you ashore, wasn't it?

A. He says, "You are supposed to be on watch at five o'clock." He didn't tell me to go on, because it was a quarter to six then and he could not very well tell me to go on watch at five o'clock that day, and then he had ordered me ashore before I had a chance to go on watch at five o'clock the next day.

Q. Well, I understand that, but your dispute was as to whether or not you were entitled to overtime if you went on watch at five o'clock?

A. He was going to put me ashore first thing and I—

Q. I say, that is what your dispute was about, as to whether you were entitled to overtime, wasn't it, if you went on watch at five o'clock?

A. Anything like that, if it is not overtime, you can have that settled later on, but he was going to put me ashore.

Q. Wasn't that what the dispute was about, Mr. Gilbert? A. That was partly, yes.

Q. Wasn't that solely what it was about?

A. Well—

Q. You say you told him that you would go on watch if he paid you overtime, and he said—

A. I didn't say "if." It would mean overtime, I said it would mean overtime for me.

Q. And he told you there would be no overtime and if you didn't come on watch he would put you ashore, didn't he?

A. "Overtime be God damned," he says, "you will go on watch at five o'clock or I will put you on shore at Juneau." We were in Taku Inlet at that time.

Q. Didn't Mr. Robblee order you to put up the anchor light— A. No.

Q. —at that time?

A. No, not that time, no, sir.

Q. Didn't you tell him you would not put up the anchor light, or, if you did, you would be entitled to overtime? A. No.

Q. And didn't he expressly order you to put up the anchor light? A. No.

Q. Didn't he say to you, "Do you refuse to put up the anchor light before six o'clock when it is dark?"

A. No, I never said—refused to put no anchor light.

Q. Didn't you answer that you did refuse unless you got overtime?

A. We were talking about the overtime. We didn't go that far about lights.

Q. (THE COURT): Let me ask: Did you go to work after that at five o'clock?

A. I could not very well, sir, because it was 5:45 then.

Q. (THE COURTS): Well, after that?

A. I was ordered ashore in the meantime the next day.

THE COURT: Oh.

MR. BOGLE: At that time, if the court please, they were at I think a little place where there is a cannery—wasn't it, Mr. Gilbert?

THE COURT: I understand that is near or at Juneau, when they met.

THE WITNESS: Yes, sir.

MR. BOGLE: Some little landing there and he was discharged when they arrived at Juneau, was put off.

THE COURT: All right.

Q. (MR. BOGLE): Now, you say that Mr. Robblee gave you certain orders after this argument?

A. Yes.

Q. And according to your testimony, Mr. Gilbert, this argument never reached a climax where you were ordered to do certain work or quit, it never reached that point, did it?

A. He says he would put me ashore in Juneau, and left me there, so I went along and—

Q. He would put you ashore in Juneau if you didn't do what?

A. He says, "You will turn to at five o'clock," he says, "or I will put you ashore in Juneau," and I told him he could not kid me that way. "Well," he says, "there is no kid about that," he says, "I am mate aboard of the ship and I am going to be mate aboard the ship."

Q. (THE COURT): What time did you go to work previous to this, between there and Seattle and after you left Seattle?

A. Six o'clock, 6 p. m. to 6 a. m.

Q. (MR. BOGLE): And on this night the vessel was at anchor, wasn't she? A. Yes.

Q. Lying where, at Taku Inlet?

A. Yes, Taku, or Annex Creek, something like that.

Q. And it was raining, a dark nasty night, wasn't it?

A. It was kind of a hazy night. It was not what you would call a real clear night. It seems to me it was raining a little bit, I am not absolutely positive.

Q. Wasn't it blowing quite hard?

A. No, I don't remember of its blowing very hard.

Q. Do you remember the ship having some trouble holding her anchorage, dragging her anchors there, on account of the force of the wind?



A. I remember they had a man there watching for ice flowing down—the ice floes, but as far as dragging anchor—didn't drag any anchor while I was on watch from six o'clock that evening until the next morning. She might have dragged her anchor before that, or she might have dragged the next morning after I went off watch.

Q. On this same night of October 3rd, after the argument with the mate, what did you do, Mr. Gilbert?

A. Well, I went on and I put up electric light forward—electric anchor light, and then put up an oil one aft, and I put some clusters around the deck where he told me to put them and—

Q. Where he told you to put them after this argument? A. Yes, this was after.

Q. After the argument, you met him again on deck? A. Yes, sir; after.

Q. I want you to be pretty sure.

A. About half past seven, something like that.

Q. About half past seven.

A. No, it was not electric clusters, it was lanterns, coal oil lanterns. The hatches were off and there was only a very narrow space to walk along, and there was a lot of lashings where the things were lashed, and they had those lights so that they could see on the deck.

Q. And you say you put out both the riding lights, did you?

A. I put out both those. There was one out there at the time, an electric—an electric one, so I took that one down—not electric, coal oil, and I took that coal oil lamp down.

Q. When you first came out and attempted to go on watch that night, didn't you meet Mr. Robblee on deck forward? A. Forward?

Q. At the lamp room door, where they keep the lamps? A. No, I don't remember meeting him.

Q. You went to the lamp room, didn't you?

A. Oh, yes, I would have to go, to get lights.

Q. Do you remember seeing some one there in the lamp room?

A. There was one fellow, Bill, I don't know his other name, quite an elderly man with a gray mustache, he was putting up the forward riding light in the rigging, when I went forward he was putting that up there.

Q. Didn't you see Mr. Robblee at that time?

A. No, I don't remember seeing him.

Q. Didn't you see Mr. Robblee at that time, and didn't he tell you that you need not bother about the lights, that he had a man fix them already?

A. That was the next day at Juneau.

Q. You are sure of that, are you? A. Yes.

Q. Were you putting out your anchor lights at Juneau?

A. Oh, no, it was not anchor—I was not putting no anchor lights the next day, and it was not at the oil room either that he told me that the next day at Juneau. We were at the city dock, I think it was, in Juneau, and—

Q. City dock, and what were you doing, getting lights at the city dock?

A. I was not getting lights out at the city dock.

Q. I asked you if he didn't tell you that you need not mind about the lights, that he had another man to put them up? A. That night, no, not October 3rd.

Q. Did he on October 4th?

A. Yes, he told me, he says, "You need not go to work tonight," on October 4th.

Q. No, I say about the lights, telling you you need not bother about the lights, that he had another man to put them up? A. No, he didn't.

Q. He didn't do that?

A. He didn't tell me, no. In Juneau he told me I need not go to work, though—"Need not turn to" he says.

Q. He told you that, did he?

A. Yes, he says, "You need not turn to." Well, I told him I had been working already. "Well," he says, "you haven't been," and I says "I have," I says, "go down ask the third mate," I says, "he saw me fixing the lights down there in the hold."

Q. That was about—after seven o'clock, wasn't it? A. This—

Q. When this conversation took place?

A. In Juneau?

Q. Yes. A. Yes.

Q. Hadn't he called you into his room that afternoon and made out your pay check? A. Yes.

Q. And told you that you were through and discharged? A. Yes.

Q. So that you knew that when you went on watch at six o'clock that night?

A. Well, the way I looked at it—

Q. You knew that, didn't you?

A. —he was not in the right in discharging me, in doing that, and that is why I went to work.

Q. I say, he had discharged you, made out your pay check and told you to go to the purser and get your money, that afternoon, hadn't he?

A. Yes, he did.

Q. And that pay check was correct for your wages up to that time, wasn't it?

A. Up until I was discharged.

Q. That was correct? A. That was correct.

Q. And you refused to take that? A. Yes.

Q. And you refused to quit? A. Yes.

Q. And it was that night that you told him that you would not go ashore unless he put you ashore?

A. I told him I would not go ashore because—well, he says "I will put you ashore," he says, "when we get ready to go," he says, "I will put you ashore," he says, "you can sleep in your room tonight," he says, "but I will lock it up tomorrow," he says, and he says, "we will put you ashore before we go away from here."

Q. Did he use any force putting you ashore?

A. Yes, he caught me by the arm and put me ashore.

Q. You didn't resist any?

A. I didn't—I did, yes. I didn't make a fight, though, or nothing like that, but I resisted.

Q. Isn't it a fact that when he put his hand on your arm you said, "That's all I wanted, I just wanted you to put your hand on me"—isn't that correct?

A. No, I didn't, no.

Q. Why did you want him to put you ashore?

A. Well, he could order me ashore, and I didn't know what he could put in the log book or anything like that.

Q. (MR. WIENIR): What is that, Mr. Gilbert?

A. He could—if I went ashore, I don't know, probably he could put I deserted the ship or something like that, I don't know what could have been put in the log book against me, so—

Q. That is what you were thinking about?

A. So if he wanted to put me ashore, well, he could put me ashore, forcibly, but I was not going to go ashore, because I didn't consider that right, because I had always tried to do the best I could there.

Q. Now, you testified that you tried to get work on the "Kansas City?" A. Yes.

Q. When was that?

A. Well, it was—I think it was the day after she came here from San Francisco.

Q. And what month?

A. Let's see, that is about—I think it would be somewhere about the last of September or first—let's see—I can't tell you the exact date. It was the day after—she came here Sunday morning, and this was Monday morning, the next day.

Q. You think that was before the 9th day of November, do you? A. Oh, yes.

Q. The "Kansas City" is owned by the same company, isn't she—the Alaska Steamship Company?

A. The Alaska Steamship Company.

Q. Mr. Gilbert, you didn't consider that your reputation had been injured to any great extent, if you thought you could get a job with the same company, did you?

A. Well, I didn't know, so I went down to see. I didn't get—

Q. The "Kansas City" and the "Alki" are the only two vessels you tried to get position on?

A. In Seattle here?

Q. Yes.



A. Of course there were other jobs I could have had, but they were going away a long distance, and I wanted to be here for when the case came up in court, if I could.

Q. And you turned down other employment so that you could be here? A. Yes.

Q. And you have already given your deposition in this case, haven't you? A. Yes.

Q. Didn't you testify in that deposition that the only work—the only ship you tried to get any employment on, after your return to Seattle, was the “Alki?”

A. I did, but I had forgotten about the “Kansas City.”

Q. You had forgotten about the “Kansas City?”

A. Yes.

Q. That question was asked you several times and you positively stated that the “Alki” was the only one; isn't that right?

A. Yes, I said—that is correct, I told him the— I said the “Alki” was the only one, at the time. I don't know if I said it more than once or not, but I said it.

Q. And the “Alki,” you tried to get employment—it was only a few days before you testified before, wasn't it? A. Just a few days, yes, sir.

Q. And you testified before on November 23rd, didn't you? A. Well, I don't remember the date.

Q. Well, the deposition, in connection with other depositions taken on the same date, shows this testimony was taken on November 23rd.

THE COURT: Was this in this same matter?

MR. BOGLE: Yes, he testified, and Mr. Wienir is putting him on instead of putting in the deposition. He has already given his deposition.

THE COURT: Proceed.

Q. You stated you stayed at Juneau for twelve days?

A. Eleven days, I think it was, eleven and got away on the twelfth.

Q. And how did you get the money to get out?

A. I got it from the bank there. I had a deposit in Seattle here, so I went to a bank there in Seattle—in Juneau, and I happened to have my pass book with me and it was marked up to a few days before we left Seattle, so he gave me the money, that is, the cashier of the bank.

Q. And you got the money by drawing a draft on your bank? A. Yes.

Q. And this item of \$500 damages is for damages to your reputation?

A. Yes, I claim to reputation and—

Q. You have no specific damage, have you, you haven't been kept out of any employment, have you?

A. Well, not that I know of, I—

Q. It didn't prevent you from getting your certificate as A. B. seaman, did it?

A. Well, this—let's see, this kept me out of going on the "Minnesota" and some of those steamers, the "Edna" or—

Q. The only thing that kept you out of that was your desire to be here until this suit was finished, wasn't it?

A. Oh, yes, I see, yes, sir; I see what you mean now, yes.

Q. It was not the fact that you got discharged that kept you from it.

A. Yes, I see what you mean now.

MR. BOGLE: Attached to this original deposition is a copy of an agreement between the Sailors Union of the Pacific and the Shipping Association, which I would like to use in connection with Mr. Gilbert's testimony. I did before, when he gave his deposition. I think we can consent that this deposition be opened.

MR. WIENIR: Why? What do you want to do with that?

MR. BOGLE: I want to ask him some questions about that.

MR. WIENIR: Your Honor, I object to that unless they want to put that agreement in evidence,

and we certainly will object to that agreement being put into evidence.

MR. BOGLE: It is in evidence now.

MR. WIENIR: Well, Your Honor—

THE COURT: I do not want to read that deposition and listen to this testimony too. I do not want to take the time, consume double time in trying the case.

MR. BOGLE: No, but the exhibit that I now want is attached to his deposition and the deposition of these other witnesses.

MR. WIENIR: That is a copy of that agreement, if you want to offer it in evidence.

MR. BOGLE: It puts me in an embarrassing situation, because I have assumed right along that—

THE COURT: The agreement can be used for any purpose that is proper in this case—

MR. WIENIR: Oh, yes.

THE COURT: —detached from that deposition. The deposition cannot serve any purpose now.

MR. BOGLE: Well, I will use that in connection with another witness, if Your Honor please.

THE COURT: How is that?

MR. BOGLE: I will, I say, use that agreement in connection with another witness.

THE COURT: All right.

#### REDIRECT EXAMINATION

Q. (MR. WIENIR): Mr. Gilbert, did you have any serious trouble with the mate previous to October 3rd, 1915?

THE COURT: He testified to that, I think. He said that he called him certain names sometimes.

THE WITNESS: And swore at me, the like of that.

THE COURT: Yes.

Q. (MR. WIENIR): Did you refuse to do your duty at any time when he commanded you?

A. No, sir.

MR. BOGLE: We are not claiming that he ever refused duty or was disobedient to orders except this one time. I do not think that is proper.

Q. (MR. WIENIR): Why did you say, "If you want to put me ashore, all right, put me shore?"

THE COURT: Oh, I think you have covered that. It would appear to take up time unnecessarily.

Q. (MR. WIENIR): This money that you got from the bank, why did you wait eleven days in Juneau until you got this—until you worked your way back to Seattle?

MR. BOGLE: I object as immaterial, if the court please. A. Well, I thought—

MR. BOGLE: It can't make any difference why he waited there.

THE COURT: Let him answer.

A. Well, I didn't know I could get money there from my account in Seattle until I would make a draft and send it to Seattle and have it certified and come back again to Juneau, so I tried to get out on some steamer in the meantime.

#### RECROSS EXAMINATION

Q. (MR. BOGLE): You are a member of the Sailors Union of the Pacific, Mr. Gilbert? A. Yes, sir. (Witness excused.)

P. BARING, produced as a witness on behalf of Libelant, and having been first duly sworn, testified as follows:

MR. WIENIR: If Your Honor please, I took the deposition of this man at a time when I believed he would not be able to be present here. By good luck he was able to be here and I—

THE COURT: Now, gentlemen, I didn't undertake to hear a whole house of witnesses here, I took this up as an emergency matter. If your testimony is in deposition, then there is no real reason why we should take the time of the court in going over it again.

MR. WIENIR: Well, that is all right to us, we are willing to submit it in deposition.

THE COURT: If depositions are taken, there is no use taking the time of the court in going over it again.

MR. WIENIR: All right.



THE COURT: In view of the fact that our time is very limited.

MR. WIENIR: The rest of our case, Your Honor, will be presented by means of depositions we have taken.

THE COURT: How many depositions are there?

MR. WIENIR: Well, there are the depositions of three witnesses, I believe.

MR. BOGLE: Besides Mr. Gilbert.

THE COURT: All right. Proceed.

LIBELANT RESTS

THE DEFENSE

MR. BOGLE: I would like to use the exhibit, in connection with the testimony of Mr. Gill, attached to the deposition.

THE COURT: All right. Swear the witness and detach it.

P. B. GILL, produced as a witness on behalf of Respondent and Claimant, having been first duly sworn, testified as follows:

THE COURT: The deposition, I understand, to which that agreement is attached, will not be used.

MR. WIENIR: No.

THE COURT: And it may be opened and the agreement detached for such use as may be proper upon this trial.

MR. WIENIR: There is a portion of the depositions that will be used. This is all in one hearing. There are five witnesses. Their testimony was taken at one hearing.

THE COURT: Oh, well, then the depositions may be published, but the testimony of the claimant will not be considered.

Q. (MR. BOGLE): Your name, Mr. Gill?

A. Yes, sir; P. B.

Q. And what is your business?

A. My business, for the Sailors Union of the Pacific of Seattle.

Q. (THE COURT): What?

A. The business agent for the Sailors Union of the Pacific, at Seattle.

Q. (MR. BOGLE): And you are here upon subpoena which we issued for you? A. Yes, sir.

Q. How long have you been such agent?

A. Since November, 1895.

Q. You were such agent, then, on May 29, 1913?

A. Yes.

Q. Now, I will hand you this pamphlet, respondent's exhibit "1," and ask you what that is, Mr. Gill?

A. That is the agreement entered into between the Puget Sound Shipping Association and the Sailors Union of the Pacific.

Q. Is the Alaska Steamship Company a member of the Puget Sound Shipping Association?

A. It was at that time represented.

Q. It was at the time of this dispute in 1915 too, wasn't it?

A. I presume so. Of course I have no way to know personally. I assume they are.

Q. Don't you know that they are?

A. They might have parted company, for all I know.

Q. Well, you know, as business agent, that they have not parted company, don't you?

A. I have an idea that they are still a member of the Association.

THE COURT: That is the Alaska Pacific?

MR. BOGLE: No, Alaska Steamship Company this is, if the court please.

Q. (MR. BOGLE): That agreement is the working agreement agreed to by the shipping companies belonging to the Association, and the Sailors Union, isn't it? A. Yes, sir.

Q. And they are mutually bound by the terms of this agreement—the members of the Union and the members of the Association, aren't they?

A. Yes, sir.

Q. Do you furnish the seamen with copies of these, or in any way make them familiar with the terms of this agreement?

A. We always have several hundred copies printed for their benefit.

Q. Now, what is the usual method of disposing of disputes as to overtime?

A. Well, there is a clause in the agreement that reads that if there is any doubt what shall be considered as overtime, the matter shall be taken up between the Union and the owners, for adjustment. That is there in a general way. It was not inserted in the agreement, by the way, to absolutely gag a man's mouth when he is away. Ordinarily, naturally a man will have dispute with the mate, and that can be done in a proper manner.

Q. I understand that. I am just asking you if that is in there? A. Yes, that clause is in there.

Q. I understand you are a member of the Sailors Union, of which the libelant is a member?

A. That clause is in there.

Q. That clause is that "Members shall use their best judgment at all times and if in doubt what shall be charged as overtime, shall do the work required of them and then refer the case to the Union for adjustment." Isn't that frequently done, don't you adjust these disputes of overtime very frequently?

A. Very frequently.

Q. You are very familiar with that agreement, aren't you? A. I think so.

Q. Is there any stipulation or article in there providing that a watchman shall work from 6 p. m. to 6 a. m.? A. There is not.

Q. That is all right. A. A watchman—

Q. That is all I asked, Mr. Gill. That is all.

#### CROSS EXAMINATION

Q. (MR. WIENIR): Mr. Gill, are you acquainted with the practice in the various ships as to what the regular hours of employment of watchmen are?

MR. BOGLE: I object to that, if the court please, as not being proper cross examination. I examined this witness for the specific purpose of identifying this agreement, showing that that was in effect and was binding upon both parties. Now, any outside understanding is not proper cross examination.

THE COURT: He may answer.

Q. (MR. WIENIR): State whether or not you know that practice?

A. The general practice with watchman, after they leave Seattle, is from six to six. In Seattle, particularly when cargo is not handled and everybody leave the vessel at five o'clock, then the watchman in many cases goes to work at five o'clock and stay on until seven in the morning; but the general practice is from six to six when they are running, when somebody is always on deck. There may, however, be a few exceptions, I don't know.

Q. (MR. WIENIR): Mr. Gill, if a mate desires to switch hours of employment, does he generally notify the seaman that his hours of employment are changed?

MR. BOGLE: That is objected to as entirely immaterial.

THE COURT: Sustained.

Q. (MR. WIENIR): Mr. Gill, if a mate desires to call a man to work overtime, is it the custom to allow a certain time in which the man may come aboard ship?

MR. BOGLE: Objected to as immaterial.

A. I didn't catch that.

MR. BOGLE: This witness has not shown that he has ever been on that run or knows anything about the practice aboard ship.

THE COURT: Sustained.

Q. (MR. WIENIR): What is the purpose of that clause of the agreement that you just cited?

MR. BOGLE: I think it speaks for itself, if the court please. It is a binding contract.

A. The purpose is to—

MR. WIENIR: Just a minute.

THE COURT: I think the shipping articles, if there are shipping articles, and I understand there are, perhaps will govern the trial and dispose of that.

MR. WIENIR: Very well. I think that will be all, Mr. Gill.

MR. BOGLE: I have a copy of the shipping articles, that I got from the shipping commissioner.



THE COURT: Is there any objection?

MR. BOGLE: This is an official document.

THE COURT: I understand there is no objection.

MR. BOGLE: It is a part of his official document, and he requested that I return them to him, and he holds my receipt for them. I will let counsel look at that, if he desires. It does not provide any hours of work for watchmen. Do you want to go into that?

MR. WIENIR: No, I have no objection to that.

MR. BOGLE: I do not want to introduce them in evidence, because I have to return them; but it does not provide any.

THE COURT: Any hours?

MR. BOGLE: For watchmen.

MR. WIENIR: For watchmen.

THE COURT: Yes. Is there anything else that you desire to call the court's attention to in the shipping articles?

MR. BOGLE: One clause, if the court please—this clause:

“And the said crew agree to conduct themselves in an orderly, faithful and honest manner, to be at all times diligent in their respective duties, and to be obedient to the lawful commands of the said master, or of any person who shall lawfully succeed him, and of their superior officers, in everything relating to the vessel, and the stores and cargo thereof, whether on board, in boats or on shore, and in consideration of which service to be duly performed the said master hereby agrees to pay the crew,” and so forth “his wages.”

THE COURT: Proceed.

F. W. ROBBLEE, produced as a witness on behalf of Respondent and Claimant, and having been first duly sworn, testified as follows:

Q. (MR. BOGLE): Your business, Mr. Robblee? A. Chief officer of the “Seward.”

Q. How long have you been a seaman?

A. Since the 7th day of September, 1887.

Q. How long have you been in this run to south-eastern and southwestern Alaska?

A. I was in it about two years and a half some years back, and I am in it now going on six months at the present time.

Q. You were the chief officer on the trip leaving here about September 27th? A. I was. -

Q. Did you employ Mr. Gilbert in the first instance?

A. I reemployed him after he had been adrift for a couple of days.

Q. (MR. WIENIR): I can't hear you.

A. I say, I reemployed him after he had been adrift for a couple of days, yes sir.

Q. (MR. BOGGLE): Did you at that time say anything to Mr. Gilbert about his hours of work?

A. No, I didn't say anything at all to him. I thought he understood his business well enough to attend to it himself.

Q. You employed him as night watchman?

A. Night watchman.

Q. What are the duties of a night watchman?

A. The duties of a night watchman is to inspect the ship when she is running and report to the bridge if there is any fires, cargo adrift, lights out, or anything like that, or anything going wrong fore-and-aft of the ship; put his riding lights up when the vessel is lying at anchor in an open roadstead or at anchor in port; also to keep a fire in the galley, call cooks—several little things like that.

Q. When the vessel is at anchor, what hour is he supposed to put the riding lights up?

A. It all depends on sunrise and sunset, that is what our law calls for—sunset and sunrise.

Q. Calls for anchor lights when you are at anchor at sunset, doesn't it?

A. That is the United States law.

Q. And is it the duty of anyone else aboard the vessel to put out her anchor lights when she is at anchor?

A. Not customary on any vessel. The watchman

puts his lights up, and it is not his duty to take them down on short winter mornings, when it is eight or nine o'clock, some of the deck hands, quartermaster or somebody takes it down. It is his duty to put it up, invariably.

Q. Is it customary for the watchman to wait for orders every night or on every occasion?

A. I never heard of it before, awaiting orders for riding lights. Of course cargo lights, it is customary for the mate to tell him what lines he wants the lights in for the gangs he is going to work at night, yes.

Q. In the summer time, when the days are long, when does the night watchman come on?

A. Well, he is generally around about six o'clock; he is around all night. He has no lights to put up, then, when he is up north.

Q. Later, in the fall and winter, is it dark in Alaska by 5:30 at night?

A. It is dark—oh, yes, well dark, 5:30; it is dark at five o'clock in October up there.

Q. On such nights, what do you do about your lights when you are at anchor?

A. The watchman puts the riding light up, the anchor light up, always; never have to tell him about it.

Q. He puts it up at five o'clock, six o'clock?

A. He puts his lights up, if he knows his business, yes.

Q. Had you ever given this watchman, Gilbert, orders, at any previous time, about putting up lights?

A. On cargo lights only, because I never bothered about an anchor light except, occasions going to anchor unexpectedly, I would tell the watchman to have his lights ready. He never objected previous to that. We didn't do much anchoring.

Q. On this particular night, the night in question, where were you anchored?

A. Annex Creek.

Q. And what kind of a night was it?

A. Dark, rainy, blowing a gale of wind.

Q. And what time did it get dark that night?

A. Well, it was getting dark at a quarter past

five. We anchored about ten minutes to five. Started discharging at five o'clock.

Q. And did you have any trouble holding your anchors there?

A. Yes, we were dragging a bit. The next morning we had to get out of there, on account of dragging.

Q. Of course, being at anchor, you didn't have any running lights out?

A. No, the running lights were not out.

Q. Were there any lights aloft? A. No.

Q. To indicate the position of your ship?

A. No, nothing except what were shining in the deck house.

Q. Were you in a position—lying in a location where there was any danger from other vessels or other craft?

A. Well, there was danger, yes; there was lots of other boats that could come there. There was none in there that night. The "Santa Ana" was in Juneau at the time, as it happened. Gas boats and everything else.

Q. When did you first notice, on this night, that the anchor lights were not up?

A. I would not be sure of the time, but I would judge it was about ten or fifteen minutes past five when we got started with the cargo.

Q. And what did you do when you found that out?

A. I went for the watchman.

Q. And just—

A. Met him in the athwartship alleyway, coming from the mess room, and I asked him why he wasn't on watch. He said he didn't have to go on watch. I said, "What's the matter with your anchor light?" "Well," he says, "I don't have to put up any light before six o'clock, without overtime." And, "Well," I says, "You will do as you are told around here, Gilbert, or you will hit the beach." He says, "Don't kid me like that, old-timer; I am too old in the game," and I just simply told him it was no kidding.

Q. Did you order him to put out his anchor light?

A. I asked him then, right then and there in the



alleyway, I says, "Do you absolutely refuse to put up a light before six o'clock without overtime?" And he looked and stammered for a minute, he says, "I do." I said, "All right." I went forward and knocked off one of the men and put him down to get a light up. In a few minutes Gilbert came forward—

MR. WIENIR: I didn't quite catch that last answer.

A. I went forward and got a sailor to put the riding light up. Didn't want the watchman any more; I wasn't stuck for a watchman at all.

Q. (MR. BOGLE): You got another man to put out the riding light. A. I did.

Q. Did you see Gilbert—

A. He came forward to the lamp room, and I was there, I says, "You needn't bother with the lights, this man will put them up." If he done anything after I left the deck, he done it on his own initiative, I didn't need him; plenty of men there.

Q. Did you give him any further orders that night?

A. I gave him no further orders until the next day, in Juneau, when I put him ashore, as he said.

Q. Why didn't you discharge him at that point, Mr. Robblee?

A. Simply to keep control of the ship. There has got to be somebody have authority to say who is going to run it.

Q. What I meant was, why didn't you put him ashore where you were lying at the time that this occurred?

A. Well, because I didn't have the heart to put a dog on the rocks there in the rain there.

Q. You waited until you got to Juneau the next day. Mr. Robblee, as first officer aboard this ship, do you have general charge of the handling of cargo?

A. I have—

Q. Direct charge of the crew?

A. Direct charge of the crew and discharging and loading cargo, under the master's orders.

Q. How much of a crew did you have aboard the "Seward?" A. I have nine men and a watchman.

Q. Nine seamen?

A. Well, there was two—I forget whether there was two or three winch drivers that trip.

Q. Were all hands working cargo at the time of this dispute between you and Mr. Gilbert?

A. Everybody was working cargo, yes.

Q. And why did you discharge him, Mr. Robblee?

A. Discharged him because he refused to do what he was told. If there was any dispute about the overtime, it was up to him to put it down, any dispute. We would have done the same and referred it to the agent and the company when we got back to Seattle. I have had no further trouble with overtime since then.

Q. Did you have anything further to do with Mr. Gilbert that night, on the 3rd? A. I did not.

Q. You arrived in Juneau the next day, did you?

A. How?

Q. You arrived in Juneau the next day?

A. The next afternoon. I am not sure just what time we arrived. We had to get out of there on the following morning, we couldn't hold our anchors.

Q. When did you first see Gilbert the next day, at Juneau?

A. The next day at Juneau, I would not be positive what time when I saw him first. I didn't pay any further attention to him. He was out of my books then, you know; I offered him his check, the next day, and he says, "That's no good to me."

Q. That is what I was getting at. When did that take place?

A. Oh, I don't know just what time, I think it was in the afternoon, probably two or three o'clock, I would not be sure of the time. I didn't make a memorandum of it.

Q. It was before seven o'clock in the evening, wasn't it?

A. Oh, well, it was sometime in the afternoon. I don't know just what time it was I called him. He was there in the forenoon. He came aboard. I sent word

I wanted to see him, or I went after him myself, I forget which.

Q. And you offered him his pay?

A. I offered him his time-check.

Q. And he refused to take it?

A. He said it was no good to him.

Q. I wish you would just state what took place along about seven o'clock that evening when Mr. Gilbert—

A. Nothing only he came forward with his jumper and his cap on, and I told him he was finished and he would stay finished, that was all.

Q. Well, did you put him ashore forcibly?

A. I says, "You will have to go ashore," and he says, "I won't go ashore unless you put me there." "Well," I says, "I will put you ashore. You can sleep in your room tonight, if you want to, but," I says, "I will put you ashore before we leave." I am not sure whether he slept aboard that night, or not, but, anyhow—

Q. Did you use any force in putting him ashore?

A. Well, at last I didn't know what he meant by saying, "Unless you put me ashore," I thought maybe he was going to start something; I said, "We won't have no rough stuff about it." I took him by the arm. He says, "That is all I want, just touch me, just so you put me ashore." He got his clothes and went.

Q. Did you make any entry in your official log book in reference to this discharge?

A. No, I made it in the bridge log, and the purser makes that entry there and he signed it, under my directions, yes—under captain's directions, rather.

Q. You are required to make such entries, are you not, and file the official log—

A. Not in the official log. Well, under the direct supervision of the master.

Q. You signed that?

A. I signed it as a witness, that is all.

Q. And such an entry is required to be made and filed with the Commissioner?

A. That is supposed to be filed with the Commissioner.

Q. As the official record.

MR. BOGLE: This is another official document, if the court please. I would like, if Mr. Wienir will consent, just to read the entry into the record.

THE COURT: You may proceed.

MR. BOGLE: This entry appears in the official log book:

"October 4, 1915. Juneau, Alaska. A. Gilbert, watchman, was discharged for refusing to put out anchor light at Annex Creek October 3 before six p. m., without overtime. He refused to take time-check, and was put ashore. (Signed) J. Johnson, master. F. W. Robblee, mate."

THE WITNESS: Correct.

Q. (MR. BOGLE): That is the correct entry, is it, on this official log?

A. That is the official log of the ship, yes, with the Shipping Commissioner at the present time.

Q. When was that entry made?

A. That was made on the 4th—whatever date it is dated, made and signed then and there.

Q. On that date. Now, there is a similar entry in your—

A. Just simply a memorandum that he refused to put up the anchor light before six o'clock, without overtime. That is all I put in. I didn't have time to go into details.

Q. Now, who did you employ to take Mr. Gilbert's place?

A. His name was Roberts, I think E. Roberts, if I remember right.

Q. Did you get him at Juneau?

A. I got him in Juneau, yes.

Q. He is the man who appears on here as watchman?

A. He is there, signed on the 5th or 6th, I don't remember which.

Q. E. Roberts, watchman. Amount cash received on this settlement \$64.05. That is his final wages?

A. That is for the balance of the voyage up or down, yes.



## CROSS EXAMINATION

Q. (MR. WIENIR): Mr. Robblee, when did you receive your promotion to first mate?

A. Which promotion do you mean—

Q. I mean what position did you occupy on the trip previous to this last one, the one that Mr. Gilbert was on the first time? A. I was third mate.

Q. You were third mate at that time? A. Yes.

Q. When were you promoted to the position of first mate?

A. 24th of last September, I think it was, something like that.

Q. State whether you have had a little trouble with the men in pulling them around and bluffing them and so on?

A. I haven't. No bluffing about it at all. You can't go around with ping pong nets and get anything done.

Q. Did you ever have any trouble with Gilbert before that time?

A. No sir, no more—I don't know of any trouble, I can't imagine what he means. I might have said, "What the hell is the matter with you?" Or something like that, but as far as any trouble, we never had any arguments between—he was away for a couple of days, I just decided down on the ship then we would forget it, and took him back again. I don't hold no grudge against the man.

Q. What time did you first see Mr. Gilbert when you went down in the afternoon of the 3rd of October?

A. About a quarter past five, as near as I can remember, something like that neighborhood, I don't remember particular. I am too busy to take my watch out every minute.

Q. What question did you ask Gilbert?

A. I asked him why he wasn't on watch. He said he didn't have to be before six o'clock. I says, "What the hell is the matter with your riding light?"

Q. When did Mr. Gilbert quit the previous morning?

A. I don't know. He is supposed to go off at six

o'clock. He calls me or calls the other man, whoever it is, myself or somebody.

Q. What hours had he been working up to that time, up to October 3rd?

A. He had been making various hours. For nearly the trip before he didn't have to get up any lights—sometimes at one o'clock, I guess he did have them up a few mornings one o'clock in the morning, a couple of hours. He might not have done that. He was around there.

Q. During all hours. You mean that he was paid overtime when he worked all hours?

A. I don't mean anything of the kind. The watchman is not allowed to get overtime and we are not allowed to call him unless we are pressed badly for help. There is a circular letter out to that effect—from the company, to that effect.

Q. What hours did Mr. Gilbert work the first trip, the time you were third mate on the ship?

A. I don't know. It was none of my business whatever.

Q. What hours did he work on the second trip, the one that this trouble occurred in?

Q. Well, I don't know as he worked any. He was properly from six to six, because we were running, but when we got to anchor he was the fellow to put up the anchor light.

Q. Did you ever tell him his hours were changed?

A. Never told him they were changed, no, but I supposed—he was supposed to be on duty at five o'clock.

Q. Did you tell him to be on duty at five o'clock that day?

A. No, I didn't. I told him he was supposed to be on deck, if it came to a sundown, at five o'clock; that is what I told him, which was quite correct.

Q. At the time that Mr. Gilbert said "Yes, I will go on deck if you allow an hour overtime to me," what did you say?

A. I could not remember. I might have said "To hell with the overtime. Do what you are told," or

something of that kind. I haven't time to choose my words when I have got fifteen or twenty men working and work going on, and a gale of wind blowing and no lights out.

Q. What did Mr. Gilbert persist in doing when you said you would give him no overtime?

A. Well, it would have been no more to it only there was several of the rest of the crew there and so on, and when I says, "Do as you are told or you will get on the beach," he says, "Hold on old-timer, you can't kid me like that; I know too much about the game," or words to that effect.

Q. What did you do?

A. That is enough for me. When a man goes that far with me, me or him gets off the ship, that's all—one of the two of us.

Q. What kind of lights have you on the ship?

A. We have all lights—electric lights, candles and coal oil.

Q. What kind are your running lights?

A. We have electric and oil both.

Q. How long does it take to switch on your electric lights, Mr. Robblee?

A. According to how quick a man can throw the switch.

Q. Isn't it a fact that various officers of the ship did that sort of thing when it got dark, that they just simply turned the button on and the lights were on?

A. It is not a fact for an anchor light. The anchor lights are detachable, and the running lights are permanent fixtures.

Q. What about the running lights?

A. The running lights are masthead light and the side lights and stern light.

Q. And isn't it a fact that the watchman does not do that sort of thing until he is commanded to by the officer in charge?

A. No, not if he knows his business. I never heard tell of telling a watchman putting up a riding light, I never heard tell of such a thing.

Q. What are the watchman's duties?

A. To get up his riding lights, keep the fire for the cook, and look wise, mostly.

Q. Now, at the time that you wanted to put Mr. Gilbert ashore, did he resist you, did he say "No, I don't want to go ashore?"

A. He says, "You have got to take hold of me to put me ashore," he says, "that is all, just touch me and I will go." That is all he said.

THE COURT: They have both been over that and I think I understand just what took place there without taking up the time cross examining upon that.

MR. WIENIR: I just want to ask one question.

THE COURT: Proceed.

Q. (MR. WIENIR): As far as you know, Mr. Gilbert was anxious to go to work that night, wasn't he—that night after you discharged him?

A. I don't know whether he was anxious or not. I told him he was not going to work, and he was not going to work.

Q. Answer my question. A. I don't know.

Q. Answer me whether according to your idea, Mr. Gilbert was ready and willing and wanted to go to work and did go to work that night?

A. He could not go to work, that is all there is about it. His personal intention has nothing to do with me. When I am mate of the ship—and I am mate of it—when I tell him he is done he is done.

Q. Don't get so hot, but answer the question. Is it a fact or is it not a fact that Mr. Gilbert, after you discharged him, persisted in staying on the ship and did—. A. Yes.

Q. (Continuing): —and did actually— A. Yes.

Q. (Continuing): —actually go to work that evening?

A. He did actually not go to work. I stopped him before he started. If he did, he done it on his own—

Q. Well, now, I am not asking that.

THE COURT: I think I understand the situation entirely.



MR. WIENIR: If Your Honor please, I want to show that my man here was—

THE COURT: I understand the situation.

MR. BOGLE: They have both given their versions of it.

THE COURT: Proceed. I have got the version of both sides.

Q. (MR. WIENIR): So, as far as you knew, Mr. Gilbert worked from six to six until October 3, 1915? A. He was around from six to six, yes.

Q. Well, he was around from six to six?

A. He had nothing to do all summer. We turned to at four o'clock in the morning and all night—

Q. You didn't tell him that his hours of work were changed?

A. Is he such a nut that he don't know that the sun goes down in the winter time earlier than it does, up north, in the summer? He is supposed to know that.

#### REDIRECT EXAMINATION

Q. MR. BOGLE): That anchor light, Mr. Robblee, is a detachable light, and where do you have to fix it?

A. It has to be plugged and histed up in the rigging or in the stay; I forget whether we had it on the stay or on the rigging. You have to put a plug in and take it down out of the way unless you are on the long stay. Is that all?

(Witness excused.)

JOHN JOHNSON, produced as a witness on behalf of Respondent and Claimant, and having been first duly sworn, testified as follows:

Q. (MR. BOGLE): You are master of the steamship "Seward," are you? A. Yes, sir.

Q. And were in October, 1915? A. Yes, sir.

Q. At the time of this trouble between Mr. Robblee and Mr. Gilbert? A. Yes, sir.

Q. Captain, you didn't hear any portion of the conversation which took place between the two of them, did you? A. No, sir; I did not.

Q. Did the mate report the occurrence to you?

A. Yes, sir; mate came and told me that the watchman refused to put the anchor lights up.

Q. And what did you order?

A. I told him to put him off and put him on the dock as soon as we got to Juneau.

Q. Why did you take that stand, captain, why did you think it was necessary to discharge a man for that?

A. Oh, any time they give the officers any back-talk that way, on the ship, the ship is better off without anybody—

Q. Did you consider that your ship was in any dangerous position on that night as it was lying that night without anchor lights?

A. She is in dangerous place in any place to anchor, there was scows working back and forth and other ships possibly could come along there.

Q. It was a bad night, was it?

A. Black, raining night, yes, sir; blowing some.

Q. In case of dispute as to overtime, do you attempt to adjust that? A. No, sir.

Q. Or to settle that question?

A. No, sir. All I know about the overtime, if there is any disagreement about it up north, it is to be settled when we get to Seattle, decided between the Union and the company's officers.

Q. You make a notation of that and it is submitted— A. Yes, sir.

Q. (Continuing): —when you return here?

A. Yes, sir; any time there is any dispute about the overtime, they are supposed to do the work, and decide whether it is to be paid after we get to Seattle.

Q. Captain, in case of a disobedience of an order of this kind—you considered that a lawful order, did you, to put up the anchor light?

A. Sure, yes, sir. It is a customary thing, it is a necessary thing, it has got to be done.

Q. Now, captain, did you hear any portion of the conversation, or see anything that took place, at Juneau, at the time Gilbert was discharged?

A. No, sir; I didn't.

Q. Put over the rail?

A. No; I heard him have some argument with him, but I didn't see it before he went on the deck.

Q. Did you see the mate take him to the rail?

A. No, sir; I didn't see it.

Q. You didn't see him?

A. No, but the mate told me that he would not take his money.

THE COURT: I do not care what the mate told him.

MR. BOGLE: No. I think that is all.

#### CROSS EXAMINATION

Q. MR. WIENIR): Do you know of your own personal knowledge whether the anchor light was up or was not up that evening? A. Sir?

Q. Do you know—

MR. BOGLE: I didn't ask him that.

Q. (MR. WIENIR): Do you know, of your own personal knowledge, whether that anchor light was not up that evening?

A. Oh, no, I wasn't paying no attention to that.

Q. You don't know that of your own personal knowledge?

MR. BOGLE: No, he didn't testify to that.

Q. (MR. WIENIR): What did you say, Captain Johnson, when the mate told you that he had already discharged Gilbert? A. No.

Q. What did you say to Mr. Robblee?

A. I told him to put him off, to put him on the dock as soon as we got to Juneau.

Q. This was after the man had been put ashore?

A. No, sir.

Q. What did you tell Mr. Robblee?

A. I told him—he told me that the watchman refused to put the lights up. I told him to put him off, to put him on the dock as soon as we got to Juneau.

Q. What did you say after the man was put ashore?

A. I didn't say anything after he was put ashore.

Q. As a matter of fact, didn't you say, "We don't need a watchman anyway, let him go," or something to that effect?

A. Very likely; we don't need anybody that gives any back talk to the officers, watchman or no watchman. The ship is better off without them, we don't need them.

Q. Captain Johnson, of your own personal knowledge, do you know whether Mr. Gilbert has ever disobeyed any order?

A. No, sir. No, sir, I don't know anything about that. The officer handled all that part of it. It is the first time I heard anything about—

MR. WIENIR: If Your Honor please, if you will permit me to put Mr. Baring on the stand. He saw the anchor light was up at this particular time. Mr. Baring had an opportunity to see and did see the anchor light. Will you permit me to put him on the stand?

THE COURT: Proceed.

MR. BOGLE: When?

MR. WIENIR: On this particular occasion.

(Witness excused.)

#### REBUTTAL.

P. BARING, produced as a witness on behalf of LIBELANT, in REBUTTAL, and having been first duly sworn, testified as follows:

Q. (MR. WIENIR): Just state your name.

A. Baring.

Q. Mr. Baring, you gave your testimony in a deposition, on November 23, 1915, did you not?

A. Yes, sir.

Q. I just want to ask you one question: On the day that this trouble arose between the mate, Robblee, and Gilbert here, the seaman, do you know whether or not the anchor light was up at that time?

A. Yes, the anchor light was up. They put an oil light up first, and soon Gilbert came on deck and took it down and put the electric light up, because that light was too low at the time, he put it up higher.

Q. Who did that work, who put that anchor light up there at that time, Mr. Baring?

A. Well, Bill. I don't know his last name. Bill was his name. He put it up first, but it was only 12



feet high. It is supposed to be 20 feet high. Gilbert took it down again and put an electric light up.

Q. Do you remember the condition of the weather that day or that evening? A. Yes, it was raining.

Q. It was raining? A. Yes, sir.

Q. And was the boat rocking back and forth?

A. No.

Q. Or in imminent peril or something of that sort? A. No, sir, it was not.

Q. Did anything seem to be in danger?

A. Well, the ice was floating, it was a strong tide running, but there was a man on anchor watch.

Q. Was he looking for ice?

A. Yes, he was watching for ice.

#### CROSS EXAMINATION.

Q. (MR. BOGLE): Just a minute. What time was it that you saw this anchor light up?

A. Well, it was about a quarter to six.

Q. A quarter to six?

A. Yes, when Bill put it up, the other fellow—the oil light.

Q. And do you happen to know what time this conversation took place between the mate and Mr. Gilbert? A. Well, I didn't hear no conversation.

Q. You don't know whether that anchor light was up when they were having the conversation, or not, do you? A. Well—

Q. Well, do you?

A. I know from what I was told, yes.

Q. Well, we don't care what you were told.

A. I heard that he had an argument with the mate—

Q. I don't care what you heard. You were the winch driver, weren't you? A. Yes, sir.

Q. You were working where, forward?

A. Well, I was not on the winch at the time, I was just hoisting up—

Q. And you had been up there since five o'clock, hadn't you? A. Well, I was there about four o'clock.

Q. And you saw this anchor light about a quarter of six? A. About a quarter of six, yes.

Q. And that is all you know about it, isn't it?

A. That is all I know, that the anchor light was up.

(Witness excused.)

TESTIMONY CLOSED.

United States of America, Western District of Washington, Northern Division.—ss.

I, JEREMIAH NETERER, Judge of the United States District Court for the Western District of Washington, Northern Division, and the judge before whom the above entitled cause was tried, do hereby certify:

That the matters and proceedings embodied in the foregoing transcript of testimony and proceedings are matters and proceedings occurring in said cause, and the same are hereby made a part of the record herein.

I do further certify that the same contains all the material facts, matters and proceedings heretofore occurring in said cause and not already a part of the record therein.

I do further certify that the foregoing transcript contains all of the evidence and testimony introduced upon the trial of said cause, together with all objections and exceptions made and taken to the admission or exclusion of testimony, and all motions, offers to prove and admissions, except the depositions of Oliver Woolhouse, Cezar Curty and P. Baring, on behalf of libelant, on file herein and hereby made a part of the record herein; and that libelant's exhibit "A" and respondent's exhibit "1," on file herein, are all the exhibits introduced upon the trial of said cause.

Done in open court this 26th day of June, A. D. 1916.

JEREMIAH NETERER,  
Judge.

Indorsed: Testimony and Proceedings. Filed in the U. S. District Court, Western District of Washington, Northern Division, June 26, 1916, Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy.

## MEMORANDUM DECISION

Libelant was employed as night watchman on board the Steamship Seward, September 25, 1915. No hours of employment were specified in the shipping articles. On a previous trip on the same vessel his hours were from six P. M. to six A. M. He understood the same hours applied upon the trip in issue, and he was on duty from six P. M. to six A. M., from the time the vessel left the port of Seattle, until the controversy arose some days later. On October 3rd, while preparing to "turn to" his watch at 5:45 P. M., the first mate asked him, "Why aren't you on watch." Libelant replied, "It isn't six o'clock yet," to which the mate replied that it didn't make any difference, he was supposed to be on watch at five o'clock, to which libelant replied, in substance, that it would mean an hour overtime for him. There was some further conversation between libelant and the mate, in which the mate asked libelant whether he would not work unless given overtime, and libelant said he would not, or words to that effect; but proceeded to enter upon the discharge of his duties. He was discharged and taken from the vessel on its arrival at Juneau, Alaska, the following day. The mate tendered to libelant the amount of wages earned to the time of discharge, which the libelant refused. Libelant remained at Juneau, Alaska, for the period of ten days before securing return passage to Seattle. His fare from Juneau to Seattle was \$16.00. He has brought this action to recover the wages for the trip, expenses necessarily incurred to return to Seattle, and \$500.00 damages.

No hours of employment were mentioned in the shipping articles. The agreement between the Puget Sound Shipping Association, of which claimant is a member, and the Seafarers' Union, of the Pacific, of which libelant is a member, provides that the hours of regular seamen shall be from seven o'clock A. M. to five o'clock P. M., with one hour off for lunch, and further provides that the work outside of these hours, "except such work as is necessary for the immediate safety of the vessel or passengers, cargo and crew,"



shall be paid for as overtime. The agreement further provides that quartermasters, stationmen, and watchmen, when working, shall perform their regular duties without charge for overtime, and provides the hours of such employment to be from seven A. M. to five P. M. These hours manifestly do not apply to night watchmen. Section 13 of this agreement provides, "Members of the Sailors' Union shall use their best judgment at all times, and if in doubt as to what shall be charged as overtime, shall do the work required of them, and then refer the case to the Union for adjustment." The conduct of the libelant in this case does not indicate that the language employed expressed his real intention except as a claim under Section 13, *supra*, as he immediately "turned to" his work and remained aboard the ship until his discharge, at all times manifesting his willingness to do his duty. The fact that no definite hours were prescribed for him by the shipping articles, or by the agreement between the Puget Sound Shipping Association and the Sailors' Union of the Pacific, and the hours of six to six having been given him on a prior voyage, and he having continued under the same hours upon this voyage, and the first intimation he had that the hours should be changed was at the time of this conversation, would indicate suggestion for extra time, as it would add an hour to the time previously required of him. There is no showing of disqualification or unfitness for service; nor mutinous or rebellious or contumacious conduct. Under the circumstances, the mate should have dealt with the libelant in a more indulgent spirit. Libelant should not have used the expression to his superior officer which he did, and yet there was nothing disrespectful in the words used, or any suggestion of disrespect or insubordination, even though there was a suggestion of liability for overtime, and the mate would not, under the circumstances, have the right to discharge him. I think the libelant should recover his wages for the trip, the \$16.00 fare expended, and \$35.00 to reimburse him for the outlay which was occasioned at Juneau, Alaska.



A decree may be prepared.

JEREMIAH NETERER,  
Judge.

Indorsed: Memorandum Decision. Filed in the U. S. District Court, Western District of Washington, Northern Division, January 28, 1916. Frank L. Crosby, Clerk. By E. M. L., Deputy.

### DECREE.

This cause came on to be heard on the 10th day of January, 1916, and testimony of witnesses for the respective parties being heard and considered by the Court, it was required by the Court that the parties hereto should submit briefs therein; and briefs having been submitted, and the same read and considered by the Court, and the Court being fully advised in the facts, the law, and the premises,

IT IS NOW THEREFORE ORDERED AND DECREED that the libelant herein have and recover his wages for the trip in question in the sum of \$74.79 and \$16.00 for fare expended in returning to the terminal port, and \$35.00 to reimburse him for expenses occasioned by his enforced stay in Juneau, and together with the sum of \$20.00 for attorney's fees in this action, and his costs and disbursements herein.

Done in open court this 28th day of February, 1916.

JEREMIAH NETERER,  
Judge.

Copy of within Decree received this 26th day of February, 1916.

BOGLE, GRAVES, MERRITT & BOGLE,  
Proctors for Claimant.

Indorsed: Decree. Filed in the U. S. District Court, Western District of Washington, Northern Division, February 28, 1916. Frank L. Crosby, Clerk. By E. M. Lakin, Deputy.

## MEMORANDUM OF COSTS AND DISBURSEMENTS.

## Disbursements.

	Amount Claimed.	Amount Allowed.
Clerk's fees .....	\$ 8.10	\$ 8.20
Marshal's fees .....	4.12	4.12
Attorney's fees .....	20.00	20.00
Fees for taking of depositions.....	7.50	7.50
Master in Chancery's fees.....	.....	.....
Reporter's fees, trial .....	2.50	2.50
Cost of reporting depositions.....	5.00	5.00
Transcript of above, 220 fol. at 15c....	31.80	12.00
Allowed by Court .....	.....	19.80
Witness Fees—		
Woolhouse, Oliver, address unknown, 1 day and 2 miles.....	3.10	3.10
Curty, Cezar, address unknown, 1 day and 2 miles .....	3.10	3.10
Berning, P., address unknown, 1 day and 2 miles .....	3.10	3.10
Gilbert, Arthur J., Seattle, Wash., 1 day and 2 miles.....	3.10	.....
Total .....	\$91.42	\$88.42
Taxed March 10, 1916.		

FRANK L. CROSBY, Clerk.

By ED M. LAKIN, Deputy Clerk.

United States of America, Western District of Washington.—ss.

Eimon L. Wienir being duly sworn, deposes and says: That he is the Proctor for the Libellant in the above entitled cause; and as such has knowledge of the facts herein set forth; that the items in the above memorandum contained are correct to the best of this deponent's knowledge and belief, and that the said disbursements have been necessarily incurred in the said cause and that the services charged herein have been actually and necessarily performed as herein stated.

Subscribed and sworn to before me, this 1st day of March, 1916.

ED M. LAKIN.

Deputy Clerk U. S. District Court, Western District of Washington.

Indorsed: Memorandum of Costs and Disbursements. Filed in the U. S. District Court, Western District of Washington, Northern Division, March 10, 1916. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy.

### OBJECTIONS TO COST BILL.

Comes now the Alaska Steamship Company, claimant above named, and objects to the following items contained in the libellant's proposed cost bill:

#### I.

Claimant objects to the allowance of the sum of Seven and 50/100 Dollars (\$7.50), as proctor's fees for taking depositions, and objects to the allowance of any sum in excess of Five Dollars (\$5.00), upon the ground that all of the witnesses whose depositions were taken were produced in open court, with the exception of two witnesses, whose depositions were introduced in evidence.

#### II.

Claimant objects to the allowance of the sum of Thirty-one and 80/100 Dollars (\$31.80), as the cost of original transcript of depositions, 220 folios at 15 cents, and objects to the allowance of any sum for original transcript of depositions in excess of Twelve Dollars (\$12.00), for the reason that the entire transcript of such depositions does not exceed 212 folios, of which 132 folios cover the depositions of witnesses Gilbert and Bering, who were produced in open court as witnesses in this cause, and therefore no charge can be made for transcribing their depositions.

#### III.

Claimant objects to the allowance of any witness fee to libellant, Arthur J. Gilbert.

ALASKA STEAMSHIP COMPANY.

By BOGLE, GRAVES, MERRITT & BOGLE.

Its Proctors.

Indorsed: Objections to Cost Bill. Filed in the U. S. District Court, Western District of Washington, Northern Division, March 10, 1916. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy.

MEMORANDUM DECISION.

It appears that the libelant took the testimony of one of his witnesses who is a seaman about to sail, in good faith, upon the belief that he would not be present when the cause was tried. The ship in which this witness sailed arrived in the city during the time the cause was being tried or just prior to it being tried, and the witness was called instead of his deposition read. The libelant has taxed the costs of the deposition, and the claimant has moved to retax and disallow the costs.

The claimant has cited *The Persian*, 158 Fed. 912; *Barnardin v. Northall*, 83 Fed. 241; *Cahn v. Monroe*, 29 Fed. 675; *Cahn v. Gung Wah Lung*, 28 Fed. 396; *Lamb v. Stone*, 28 Mass. 526. These cases, I do not think, throw any light upon this issue. In *The Persian*, Judge Hough simply held that an attorney's fee for taking a deposition was not chargeable where the deposition was not offered in evidence, and the same holding was made by Judge Baker in *Barnardin v. Northall*, and in *Cahn v. Monroe*, it was held that a witness called, and testifying, but not subpoenaed, was entitled to his per diem.

I think it would be manifestly unjust not to permit costs, where a party takes a deposition in good faith, though the necessity for the taking is eliminated at the time the cause is called for trial and the witness is presented in court for oral examination, direct and cross, rather than reading the deposition, and this view is sustained by *Nead v. Millersburg Home Water Co.*, 79 Fed. 129, and also by the Supreme Court of California, in *Lomita Land & Water Co. v. Robinson*, 97 Pac. 10, 18 L. R. A. (NS) 1106.

I think the costs for deposition should be allowed.

JEREMIAH NETERER,

Judge.



Indorsed: Memorandum Decision. Filed in the U. S. District Court, Western District of Washington, Northern Division, March 20, 1916. Frank L. Crosby, Clerk. By E. M. L., Deputy.

#### NOTICE OF APPEAL.

To the Clerk of the above Court, to Arthur J. Gilbert, Libelant in the above entitled cause, and to Eimon L. Wienir, Proctor for said Libelant:

You and each of you will please take notice that the Alaska Steamship Company, claimant in the above entitled cause, hereby appeals from the final decree made and entered in said cause on the 28th day of February, 1916, and from each and every part of said decree, to the next United States Circuit Court of Appeals for the Ninth Circuit, to be holden in and for said Circuit at the City of San Francisco, State of California.

Dated at Seattle, Washington, June 6, 1916.

BOGLE, GRAVES, MERRITT & BOGLE,  
Proctors for Alaska Steamship Company, Claimant.

Indorsed: Notice of Appeal. Filed in the U. S. District Court, Western District of Washington, Northern Division, June 6, 1916. Frank L. Crosby, Clerk. By E. M. L., Deputy.

#### ADMISSION OF SERVICE OF NOTICE OF APPEAL.

Service of notice of appeal by Alaska Steamship Company, claimant in the above entitled cause, and a true copy thereof, received and admitted this 6th day of June, 1916.

EIMON L. WIENIR,  
Proctor for Libelant.

Indorsed: Admission of Service of Notice of Appeal. Filed in the U. S. District Court, Western District of Washington, Northern Division, June 6, 1916. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy.

#### ORDER FIXING THE AMOUNT OF BOND ON APPEAL AND STAY OF EXECUTION.

A decree having been made and entered in the above entitled cause on the 28th day of February, 1916, wherein and whereby it was ordered and decreed that the libelant have and recover his wages for the voyage

mentioned in the pleadings, in the sum of Seventy-four 79/100 Dollars (\$74.79), also Sixteen Dollars (\$16.00) for fare expended in returning to the terminal port, and Thirty-five Dollars (\$35.00) to reimburse him for expenses occasioned by his enforced stay at Juneau, as mentioned in the pleadings, together with the sum of Twenty Dollars (\$20.00) for attorney's fees and his costs and disbursements in the said action incurred; and the said Alaska Steamship Company, claimant in said action, having taken an appeal to the United States Circuit Court of Appeals for the Ninth Circuit by filing in the office of the Clerk of the above entitled court and serving upon the proctor for the libelant a notice signed by its proctors that it appealed from the said decree to the United States Circuit Court of Appeals for the Ninth Circuit; and the said Alaska Steamship Company, claimant as aforesaid, desiring to stay execution of the said decree and having by its proctors of record moved this court to fix by order the amount of the bond which it should file as a bond on appeal staying the execution of said decree; and the Court being of the opinion that a bond in the sum of Seven Hundred Dollars (\$700.00) is sufficient upon such appeal as a cost bond and to operate as a supersedeas to stay execution of said decree;

NOW, IT IS HEREBY ORDERED AND DECREED that the appeal bond to be given on such appeal be and the same is hereby fixed at the sum of Seven Hundred Dollars (\$700.00), which bond shall operate as a supersedeas in said cause.

Done in open court this 6th day of June, 1916.

JEREMIAH NETERER,  
Judge.

O. K.—E. L. WIENIR, Proctor for Libelant.

Indorsed: Order Fixing the Amount of Bond on Appeal and Stay of Execution. Filed in the U. S. District Court, Western Division of Washington, Northern Division, June 6, 1916. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy.

BOND ON APPEAL.

KNOW ALL MEN BY THESE PRESENTS:  
That we, ALASKA STEAMSHIP COMPANY, a

corporation, as principal, and AMERICAN SURETY COMPANY OF NEW YORK, a corporation organized and existing under and by virtue of the laws of the State of New York and authorized to do business in the State of Washington, as surety, are held and firmly bound unto ARTHUR J. GILBERT, libellant in the above entitled cause, in the sum of Seven Hundred Dollars (\$700.00), lawful money of the United States, to be paid to the said Arthur J. Gilbert, for which payment well and truly to be made we bind ourselves, our and each of our successors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated at Seattle, this 7th day of June, 1916.

WHEREAS, the said Alaska Steamship Company, a corporation, principal herein, has appealed to the next United States Circuit Court of Appeals for the Ninth Circuit from the final decree made and entered in the above entitled court on the 28th day of February, 1916; and

WHEREAS, the said Alaska Steamship Company, a corporation, principal herein, and claimant in the above entitled cause, desires during the process of such appeal to stay the execution of said decree; and

WHEREAS, the said Court has heretofore fixed the amount of the bond on such appeal in order to stay the execution of said decree;

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if the above named Alaska Steamship Company, a corporation, appellant in said cause and principal herein, shall prosecute said appeal to effect and pay all costs which may be awarded against it as such appellant, if the appeal is not sustained, and shall abide by and perform whatever decree may be rendered by the United States Court of Appeals for the Ninth Circuit in the above entitled cause, or on the mandate of said United States Circuit Court of Appeals for the Ninth Circuit to the above entitled court, then this obligation shall



be void, otherwise the same to be and remain in full force and effect.

(Seal) ALASKA STEAMSHIP COMPANY,  
By W. H. Bogle, Vice-President.  
AMERICAN SURETY COMPANY OF NEW  
YORK,

By S. H. Melrose, Resident Vice-President.

Attest: Forest Le Barry, Resident Asst. Secretary.

Approved:

JEREMIAH NETERER,  
U. S. District Judge.

O. K.—E. L. WIENIR, Proctor for Libelant.

Indorsed: Bond on Appeal. Filed in the U. S. District Court, Western District of Washington, Northern Division, June 7, 1916. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy.

NOTICE OF FILING SUPERSEDEAS AND COST  
BOND.

To ARTHUR J. GILBERT, Libelant in the above entitled cause, and to Eimon L. Wienir, his Proctor:

You and each of you will please take notice that on the 7th day of June, 1916, the Alaska Steamship Company, claimant in the above entitled cause, filed a bond for costs and damages on appeal herein in the sum of Two Hundred Fifty Dollars (\$250.00), and a supersedeas bond for stay of execution in the sum of Four Hundred Fifty Dollars (\$450.00), both in one bond pursuant to an order of the above court, in the office of the Clerk of the above entitled court, a copy of which bond is herewith served upon you.

You are further notified that the name of the surety on said bond is American Surety Company of New York, said surety having an office and resident agent in the Hoge Building, Seattle, Washington.

Dated at Seattle, Washington, this 7th day of June, 1916.

BOGLE, GRAVES, MERRITT & BOGLE,  
Proctors for Claimant.



Service of the foregoing notice and receipt of a true copy of the bond therein mentioned is hereby acknowledged, this 9th day of June, 1916.

EIMON L. WIENIR,  
Proctor for Libelant.

Indorsed: Notice of Filing Supersedeas and Cost Bond. Filed in the U. S. District Court, Western District of Washington, Northern Division, June 13, 1916. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy.

#### ASSIGNMENT OF ERRORS.

Now comes the Alaska Steamship Company, claimant and appellant in the above entitled cause, and alleges that there is manifest and material error in the records, acts and proceedings of the District Court in the above entitled cause, and more particularly assigns for error the following:

##### I.

That the Court erred in decreeing that the libelant have and recover his wages for the voyage mentioned in the libel.

##### II.

That the Court erred in decreeing that the libelant have and recover his fare expended in returning to the terminal port.

##### III.

That the Court erred in decreeing that the libelant have and recover his expenses incurred by his enforced stay in Juneau.

##### IV.

That the Court erred in allowing the libelant costs and an attorney's fee for deposition taken but not used. Dated this 26th day of June, 1916.

BOGLE, GRAVES, MERRITT & BOGLE,  
Proctors for Claimant and Appellant.

Indorsed: Assignment of Errors. Filed in the U. S. District Court, Western District of Washington, Northern Division, June 26, 1916. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy.

#### ORDER DIRECTING TRANSMISSION OF ORIGINAL EXHIBITS ON APPEAL.

Now, on this 26th day of June, 1916, upon application of Messrs. Bogle, Graves, Merritt & Bogle, proc-

tors for claimant and appellant herein, and for sufficient cause appearing;

It is ORDERED that the Clerk of this Court certify and transmit to the United States Circuit Court of Appeals for the Ninth Circuit the original exhibits used and introduced in evidence upon the trial and hearing of this cause, there to be inspected and considered, together with the transcript of the record on appeal from this cause.

JEREMIAH NETERER,  
United States District Judge.

O. K.—E. L. WIENIR, Proctor for Libelant.

Indorsed: Order Directing Transmission of Original Exhibits on Appeal. Filed in the U. S. District Court, Western District of Washington, Northern Division, June 26, 1916. Frank L. Crosby, Clerk. By E. M. Lakin, Deputy.

CERTIFICATE OF CLERK U. S. DISTRICT  
COURT TO ORIGINAL EXHIBITS.

United States of America, Western District of Washington.—ss.

I, Frank L. Crosby, Clerk of the District Court of the United States for the Western District of Washington, do hereby certify that the attached documents constitute all the original exhibits introduced and received in evidence and used upon the hearing and trial of the above entitled cause, as follows:

Libelant's Exhibit "A,"

Respondent's Exhibit "1,"

which said original exhibits are herewith transmitted to the Circuit Court of Appeals, there to be inspected and considered, together with the transcript of the record on appeal in the above entitled cause; said exhibits being transmitted pursuant to the order of the said District Court, so directing.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at Seattle, in said District, this 12th day of July, 1916.

(Seal)

FRANK L. CROSBY,  
Clerk U. S. District Court.

## PRAECIPE FOR APOSTLES ON APPEAL.

To the Clerk of the Above Entitled Court:

You will please prepare, print and transmit to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, the Apostles on Appeal in the above entitled cause, pursuant to the rules of said Circuit Court of Appeals upon the appeal heretofore perfected in this court, and include in the said Apostles the following pleadings, proceedings and papers on file, to-wit:

1. All those papers required by Section 1 of Paragraph 1, Rule 4 of the Rules of Admiralty of the United States Circuit Court of Appeals for the Ninth Circuit.

2. All pleadings and exhibits including:

(a) Libel of Arthur J. Gilbert.

(b) Claim and answer of Alaska Steamship Company.

3. The testimony of Oliver Woolhouse, Cezar Curty, and P. Bering, taken by deposition on November 23, 1915, in pursuance of the stipulation of proctors, and filed on the 10th day of January, 1916; and the testimony of Arthur J. Gilbert and F. W. Roblee, taken in open court as certified by the judge and filed in your office on the 26th day of June, 1916.

4. Memorandum Decision, filed February 28, 1916.

5. Final Decree, filed February 28, 1916.

6. Cost bill of libellant.

7. Claimant's Objections to Cost Bill.

8. Memorandum Decision on Claimant's Objections to Cost Bill.

9. Notice of Appeal, with admission of service thereof.

10. Order fixing amount of bond on appeal.

11. Bond on Appeal showing Approval by the Court and Notice of Filing same.

12. Citation on Appeal, showing Service thereof.

13. Assignment of Errors.

14. Order Directing Transmission of Original Exhibits to the Circuit Court of Appeals.



14. Praeceptum for Apostles on Appeal.

Dated at Seattle, Washington, this 26th day of June, A. D. 1916.

BOGLE, GRAVES, MERRITT & BOGLE,  
Proctors for Alaska Steamship Company, Claimant  
and Appellant.

Indorsed: Praeceptum for Apostles on Appeal. Filed  
in the U. S. District Court, Western District of Wash-  
ington, Northern Division, June 26, 1916. Frank L.  
Crosby, Clerk. By Ed. M. Lakin, Deputy.

ORDER EXTENDING TIME.

Now on this 28th day of June, 1916, upon motion  
of Proctors for Claimant, and for sufficient cause ap-  
pearing, it is ordered that the time within which the  
Clerk of this Court may prepare, certify and transmit  
to the United States Circuit Court of Appeals the  
transcript of the record in this cause be, and the same  
is hereby extended to and including the 17th day of  
July, 1916.

JEREMIAH NETERER,  
District Judge.

Indorsed: Order Extending Time. Filed in the  
U. S. District Court, Western District of Washington,  
Northern Division, June 28, 1916. Frank L. Crosby,  
Ed. M. Lakin, Deputy.

CLERK'S CERTIFICATE

United States of American, Western District of Wash-  
ington.—ss.

I, Frank L. Crosby, Clerk of the United States  
District Court, for the Western District of Washing-  
ton, do hereby certify the foregoing pages numbered  
from 1 to 98, inclusive, to be a full, true, correct  
and complete copy of so much of the record, papers and  
other proceedings in the above and foregoing entitled  
cause, as are necessary to the hearing of said cause  
in the United States Circuit Court of Appeals for the  
Ninth Circuit, and as is called for by counsel of record  
herein, as the same remain of record and on file in the  
office of the Clerk of said District Court, and that the  
same constitutes the record on appeal to the said Cir-  
cuit Court of Appeals for the Ninth Circuit from the



District Court of the United States for the Western District of Washington.

I further certify the following to be a full, true and correct statement of all expenses, costs, fees and charges incurred and paid in my office by or on behalf of the Claimant and Appellant for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit in the above entitled cause, to-wit:

Clerk's fee (Sec. 828, R. S. U. S.) for making record, certificate or return, 346 folios at 15c .....	\$ 51.90
Certificate of Clerk to transcript of record, 4 folios at 15c .....	.60
Seal to said Certificate.....	.20
Certificate of Clerk to Original Exhibits, 3 folios at 15c.....	.45
Seal to said Certificate.....	.20
Statement of cost of printing said transcript, collected and paid .....	136.36
	<hr/>
	\$189.71

I hereby certify that the above cost for preparing and certifying record amounting to \$189.71, has been paid to me by Messrs. Bogle, Graves, Merritt & Bogle, Proctors for Claimant and Appellant.

IN WITNESS WHEREOF, I have hereto set my hand and affixed the seal of said District Court at Seattle, in said district, this 12th day of July, 1916.

(Seal)

FRANK L. CROSBY,

Clerk U. S. District Court.

#### CITATION ON APPEAL.

The President of the United States, to Arthur J. Gilbert, Libellant in the above entitled cause, and to Eimon L. Wienir, his proctor, Greeting:

You are hereby cited and admonished to be and appear before the United States Circuit Court of Appeals for the Ninth Circuit, in the City of San Francisco, State of California, within thirty (30) days from the date hereof, pursuant to an appeal to the said

court duly filed in the office of the Clerk of the United States District Court for the Western District of Washington, Northern Division, wherein the Alaska Steamship Company is Appellant, and you, the said Arthur J. Gilbert, are Appellee, then and there to show cause, if any there be, why the decree of the United States District Court for the Western District of Washington, Northern Division, in the above entitled cause, dated February 28, 1916, should not be corrected and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable Edward Douglas White, Chief Justice of the Supreme Court of the United States of America, this 6th day of June, 1916.

JEREMIAH NETERER,

Judge of the United States District Court, Western District of Washington, Northern Division.

Due service of the foregoing citation is hereby admitted this 9th day of June, 1916.

EIMON L. WIENIR,

Proctor for Arthur J. Gilbert.

Indorsed: No. 3164-A. In the District Court of the United States, Western District of Washington, Northern Division. In Admiralty. Arthur J. Gilbert, Libellant, vs. S. S. "Seward," Respondent. Alaska Steamship Company, a corporation, Claimant. CITATION ON APPEAL. Filed in the U. S. District Court, Western District of Washington, Northern Division, June 13, 1916. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy.